# A PLACE IN THE SUN: SOLAR LEASES IN TEXAS

**RODERICK E. WETSEL,** *Sweetwater*
Wetsel Carmichael & Allen

*Co-Authors:*
**JEFFREY L. ALLEN**
**JACOB R. LEDERLE**
Wetsel Carmichael & Allen
*Sweetwater*

State Bar of Texas
**12TH ANNUAL**
**JOHN HUFFAKER AGRICULTURAL LAW COURSE**
Lubbock – May 24-25, 2018

**CHAPTER 7**

## TABLE OF CONTENTS

# A PLACE IN THE SUN: SOLAR LEASES IN TEXAS[1]

## I. INTRODUCTION

(by: *Roderick E. Wetsel*)

As recently as 1999, most Texas attorneys – including me – had never seen a wind energy lease. However, wind developers arrived in droves to the windy areas around Sweetwater that year. In their efforts to lease land for wind energy development, they presented landowners with lengthy and complex legal documents. Landowners, in turn, began to seek legal counsel. Thus I became one of the first "wind lawyers" by a twist of fate.

Not long after this transformation in the perceived value of the windswept West Texas prairie, I received a call from the State Bar Oil and Gas Section asking if I would write and present a paper on "these new wind leases" at the 2003 Advanced Oil, Gas & Energy Law seminar in Houston. Despite being completely overrun with a multitude of new wind clients at the time, after a long pause, I agreed. It was, for me, a life-changing moment.

Knowing that I would need help, I called my old friend and law school classmate, Mike McElroy, in Austin to see if there was anyone in his firm that might be interested in co-authoring such a paper. He referred me to one of his associates, Lisa Chavarria, and the rest is history. I went on to co-author a textbook on wind law and to land an adjunct professorship at The University of Texas Law School; Lisa became a partner in a leading renewable energy firm in Austin.

In 2017, The University of Texas approached me to write and present a paper on solar leases. In the fourteen-year span between these two requests, the renewables industry in the United States, particularly Texas, had changed drastically. Over 82,000 installed megawatts (MW) of wind generation capacity had been installed in the United States, making wind one of the country's primary sources of electricity generation. Surprisingly, Texas, long known for its ties to the oil and gas industry, had also become the undisputed leader of the new wind energy industry and was home to more than 20,000 MW of this wind generation.[2] The success of the wind farm model combined with decreasing costs for solar technology also meant that solar developers had recently begun popping up like grasshoppers all over the American Southwest, including Texas. These developers again presented landowners with complex legal documents, and landowners sought their own legal counsel, including me, for assistance.

For help with the paper on solar leases, I turned to my partner, Jeffrey L. Allen, who has over ten years of experience in renewable energy, and to Jacob R. Lederle, an associate with my firm and a former top student in my Wind Law course at The University of Texas School of Law. We presented a paper entitled, "Anatomy of a Solar Lease: The Landowner Perspective," at the 2017 Renewable Energy Law Course, which The University of Texas School of Law sponsored, on January 31, 2017.

Less than a year-and-a-half later, my professional life has turned in yet another fortuitous direction. Now my firm negotiates and drafts almost as many solar leases as wind leases, and I have recently accepted a faculty position at Texas Tech School of Law, where I will be introducing new energy-related curricula starting this fall. I will also be teaching a new course entitled "Texas Mineral Titles" in the spring of 2019. In coming to Texas Tech School of Law, it is my goal to train new lawyers to meet evolving legal challenges in the rapidly developing wind and solar industries and in the oil and gas industry – all of which are booming in Texas. The goal of this paper is to introduce students, attorneys, and landowners to the major elements of a solar lease, just as the paper I authored with Lisa Chavarria a few short years ago introduced the elements of a wind energy lease.[3]

---

[1] A Place in the Sun was a 1951 American drama film based on the 1925 novel "An American Tragedy" by Theodore Dreiser directed by George Stevens and starring Montgomery Clift, Elizabeth Taylor and Shelly Winters.

[2] U.S. Wind Industry Fourth Quarter 2016 Market Report, American Wind Energy Association. (Jan. 29, 2009), http://awea.files.cms-plus.com/FileDownloads/pdfs/4Q2016%20AWEA%20Market%20Report%20Public%20Version.pdf

[3] In this new article for the 12th Annual John Huffaker Course in Agricultural Law, I would again like to recognize the efforts and contributions made by Jeff Allen and Jake Lederle in the writing of the prior paper and this paper. They are the true experts in solar law. Jeff has undoubtedly examined more solar leases than any other lawyer in the country and Jake, a top-notch solar practitioner in his own right, is also a co-author, along with Ernest E. Smith and W. Jared Berg of the groundbreaking "Everything Under the Sun: A Guide to Siting Solar in the Lone Star State" published by the Texas Journal of Oil, Gas and Energy Law in 2017. Additionally, I would like to thank my outstanding former student, Skyler Collins, (B.A. University of Wyoming, 2008; MPhil University of Cambridge, England, 2011; J.D. University of Texas School of Law 2017; Member of State Bar of Texas) for her superb work with both the preparation and writing of this article. Her research and writing skills are among the finest I have seen in my years of teaching. Likewise, I am also pleased to recognize the comments, helpful suggestions, and edits made by our upcoming Summer Law Clerk, Laura Nance, who is a 3L student at Texas Tech University School of Law (J.D. expected, May 2019), who we believe has a bright future in energy law.

## II. THE SOLAR ENERGY LEASE

In Texas, numerous versions of solar leases exist. While an oil and gas lease acts as a "fee simple determinable" that provides the lessee with an interest in the land's minerals, a solar lease (like a wind energy lease) is for a fixed term, also known as "tenancy for years," and only touches the surface of the land.[4] Most solar leases originate with energy development companies. These leases are complex and lengthy, ranging from 20-30 pages or more. Because solar developments, like wind developments, require considerable capital investment, these so-called "company leases" contain numerous financing provisions favorable to the company's lenders (and, correspondingly, less favorable to landowners) that cannot be changed lest the lease becomes "unfinanceable."[5]

While solar leases and wind leases bear a number of similarities, they also differ in important ways. For example, a typical utility-scale solar farm covers only 1,500 to 2,000 acres, while a typical utility-scale wind farm might cover 250,000 acres[6] – more than 100 times as many as a solar farm! Though a large solar farm requires less land, it might generate 200 MW,[7] while a large wind farm could generate as much as 750 MW.[8]

The method of landowner compensation is also different in solar projects and wind projects. Almost all, if not all, solar company lease forms structure their payments to landowners as annual per acre payments rather than as royalties derived from the gross production of electricity, which are common in wind projects. Solar lease provisions regarding concurrent mineral ownership, oil and gas exploration, and the payment of surface damages also differ.

## III. MAJOR ELEMENTS OF THE TEXAS SOLAR ENERGY LEASE

The following is a brief review of the major elements of Texas solar leases:

### A. Purpose Clause, Permitted Uses, and Additional Developer Rights

Over the last several years, rapid technological advances, dramatic cost reductions, and tax incentives such as the Investment Tax Credit ("ITC") have acted as a catalyst for a "solar boom" in the United States, particularly in Texas.[9] This boom has led to a proliferation of solar lease forms with innumerable small differences. However, every solar lease should include some variation of a purpose clause that specifies the purpose of the lease. Although the purpose of a solar lease is quite obviously to build a solar farm, the purpose clause articulates the activities that can and cannot be conducted on the property, and consequently is of extreme importance to both the developer and the landowner.[10] Typical language in a purpose clause specifies that "the Grantee shall have the exclusive right to use the Property for solar energy purposes and for the transmission of electrical energy generated, at least in part, by the Solar Panels located on the Property."[11]

When reviewing a purpose clause, one should first examine carefully the definition of "solar energy purposes" or other specific language that lays out the permitted uses of the property. Although the definition may be styled differently depending on the company, a typical definition is as follows: "Solar energy purposes means collecting, converting, transmitting, and distributing electrical energy converted from solar energy." A broad definition is more favorable to the developer, while a more restrictive definition is more favorable to the landowner. In either case, to avoid ambiguity, the definition should clearly set out the uses that the lease allows.

Leases frequently grant additional rights or easements for (i) ingress to and egress from the solar project;[12] (ii) the construction of roads;[13] and (iii) the construction of transmission facilities and any other facilities necessary to distribute the electricity generated by the project's solar panels.[14] If a solar company seeks an easement, the landowner should take steps to ensure that the easement will not survive the expiration or termination of the solar lease and should pay particular

---

[4] See Appendix A, Solar Lease Template, pg. 2

[5] Ten Important Issues to Consider for a Balanced, Marketable and Financeable Greenfield Solar Ground Lease, *Mercer Thompson LLC* (Sept. 19, 2017). http://www.mercerthompson.com/articles/ten-important-issues-to-consider-for-a-balanced-marketable-and-financeable-greenfield-solar-ground-lease/

[6] Robert E. Buxbaum, Land Use Nuclear vs Wind and Solar, REB Research and Consulting (Jan. 22, 2014) http://www.rebresearch.com/blog/nuclear-vs-wind-and-solar-land-use/

[7] Joshua S. Hill, First Solar to Build 200 Megawatt Solar Project in Georgia, the Largest in Southeast US, Clean Technica (Feb. 22, 2018)

[8] Candace Lombardi, Texas Completes $1 Billion Wind Energy Complex, CNET (Oct. 1, 2009) https://www.cnet.com/news/texas-completes-1-billion-wind-energy-complex/

[9] Richard Martin, Tax Credit Extension Gives Solar Industry a New Boom, MIT Technology Review (Dec. 28, 20165) https://www.technologyreview.com/s/544981/tax-credit-extension-gives-solar-industry-a-new-boom/

[10] Depending on the developer and the lease form the developer uses, occasionally a separate clause will set out the permitted uses.

[11] See Appendix A, Solar Lease Template, pg. 10

[12] Id., 3

[13] Id., 12

[14] Id., 10

attention to whether the company is seeking an exclusive or non-exclusive easement. A landowner should also specify that the developer may not use the property for any purpose other than to construct and operate a solar farm and that the lease does not grant any additional rights other than those outlined in the lease.

### B. Lease Term

The "lease term" specifies how long the lease lasts and is one of the most important provisions in a solar lease. Just like wind leases, most solar leases also include a "development term" and an "operations term."[15] The development term encompasses the period during which the developer conducts feasibility studies, completes due diligence activities, and endeavors to meet regulatory requirements. The operations term covers the period that commences when the completed solar project is generating electricity. Many leases also include a separate "construction term" that occurs between the development and the operations terms and lasts for the period during which the solar project is under construction. Each term should include language specifying the requirements that must be met during that particular term to prevent the termination of the lease.

Other terms in a solar lease are nearly identical to terms commonly found in wind leases. Nonetheless, solar lease terms and wind lease terms do have a few marked differences. For example, a solar lease almost always has shorter development and operations terms than a wind energy lease. The development term of a solar lease is 4-5 years compared to 5-7 years in a wind lease. Likewise, a typical solar operations term is 30-35 years, while a wind energy lease operations term is usually 40-50 years.

### C. Lease Compensation

Solar lease compensation schemes also resemble those found in wind leases. Most, though not all, landowners who are parties to a solar lease demand and receive a royalty that increases as the price of the electricity sold from the project increases. This royalty starts at between 3.5% and 4.5% of gross revenues and escalates over the lease term. Gross revenues typically include: (i) revenues received from the sale of electricity generated on the property; (ii) revenues from the sale of renewable energy credits, pollution credits, or other associated credits; (iii) monies received as a settlement or a judgment amount in any take-or-pay contracts (i.e., a contract that requires the buyer to pay for the electricity whether it actually "takes" it for use or not); (iv) proceeds from any lump sum payment or payments to cancel or modify any obligation under any energy or electricity or capacity purchase contract or other contract related to the project; and (v) payments made by an insurer that are made specifically in lieu of revenues received.

Royalty payments are usually remitted quarterly. Where a lease lacks a royalty payment, the landowner is essentially asked to "lock in" rental payments at today's historically low energy prices and forego the possibility of profits related to the sale of electricity increasing over time.

A solar lease, like a wind lease, also involves a guaranteed minimum payment, commonly referred to as "minimum rent" or simply as "rent." This concept, rarely seen in the oil and gas leases,[16] establishes a minimum amount that the operator of the solar farm must pay the landowner even if the solar farm is not generating electricity or it is generating at levels such that the royalty amount does not reach an established floor. This minimum rent is remitted only when the royalty payment for the prior year does not reach this floor.[17]

The minimum rent compensation is remitted to landowners just once a year, within 30 to 45 days after the end of the calendar year in which the royalty payment is low enough to trigger the minimum rent provision.[18] The minimum payment takes the form of a fixed sum per acre of leased land, known as an acreage payment, rather than a payment per megawatt of installed generation capacity, which is usually the case in wind leases. Acreage payments vary based on the underlying value of the land, determined by its attractiveness for other uses, such as agriculture or commercial development. Consequently, payments for non-arable land in remote West Texas might be $350 per acre while similar land that is nearer to urban areas, where demand for electricity is high, might reach $550 per acre. Exurban land with potential for non-agricultural development has the highest value – as much $1000 per acre.

The amount of the minimum rent adjusts upward over time according to a fixed schedule or a mutually acceptable percentage rate – usually a 2% or 3% annual increase, compounding each year. (Less commonly, an inflation adjuster adjusts the payment amounts.)

Lastly, while a solar lease affects only the surface of the land, landowners nonetheless receive "surface damages" – a concept taken directly from the oil and gas industry – for any collection, transmission, and distribution lines that are buried in the land and for overhead transmission lines that transport electricity out

[15] Id., 7

[16] Some complex oil and gas lease forms provide for a "minimum guaranteed annual royalty payment" regardless of production but such provisions are extremely rare, even today.

[17] See Appendix A, Solar Lease Template, pp. 1, 8-9

[18] Id., 9

of the "occupied area."[19] The provision for surface damages should always include payments for roads and substations as well as for any transmission, collection, or distribution lines that fall outside of the occupied area. Most leases call for payment of surface damages within 30 days of commencement of construction of the solar project.

### D. Reserved Uses

The solar developer has the exclusive right to use the leased property for the operation of a solar farm but may not use the property for any other purpose. The landowner who executes a solar lease reserves the right to conduct activities such as agricultural production, hunting, and oil and gas exploration.[20] A solar farm covers far less acreage than a wind farm, but unlike wind farms or even oil and gas exploration, solar farms have a substantial surface footprint. A typical solar farm uses 5-7 acres of land per megawatt of installed capacity, meaning that a 200 MW solar farm requires 1,000 to 1,400 acres. A wind farm, in contrast, frequently involves thousands of leased acres -- or even hundreds of thousands. Yet activities such as hunting and ranching may continue with minor curtailments or exceptions on a wind farm site but not on a solar farm site, as solar arrays and supporting infrastructure cover a majority of the solar farm's land surface, rendering the land unusable for other purposes.

The "occupied area" of a solar farm is the portion of land where the farm's solar arrays and supporting infrastructure are located. The landowner waives all rights of ingress and egress as well as all other uses of the occupied land, which is fenced off and used exclusively by the solar developer.

Landowners must bear in mind, however, that while the occupied area is the only section of the leased property actually utilized in the production of solar-generated electricity, developers nonetheless maintain rights of ingress and egress across the remainder of the land under the solar lease to effectuate the installation of transmission and support facilities (such as substations, O&M buildings, and overhead and underground transmission lines) and to maintain the solar project generally. The landowner must accommodate these development rights but otherwise may reserve the right to use land outside the occupied area for any purpose and in any manner that does not interfere with the solar farm's generation of electricity.[21]

### E. Dominant Estate

In Texas, the extraction of oil and gas has fueled the state economy – both literally and figuratively – for many decades. Long ago, Texas recognized the "severability" of a mineral estate from the surface estate. The state determined that the mineral estate is the "dominant estate," with the implied right (also called an implied easement) to use the surface as reasonably necessary to seek and extract minerals.

Some mineral rights holders have "executive rights,"[22] one of the most recognized attributes of a mineral lease, while others do not. Executive rights allow a rights holder to execute mineral leases with oil and gas companies. Just as mineral rights are "severable" from the surface of the land, an executive right is severable from the rest of the mineral estate. For example, a landowner may convey, to a third party, a portion of the minerals underneath his or her land but at the same time not convey the right to lease those minerals (the executive right). In this scenario, the landowner has conveyed a non-executive mineral interest and retained executive rights for him or herself. Executive rights are thus severed from the minerals.

Most solar companies seek a "waiver of surface rights" from mineral rights holder(s) whose rights give them an implied easement over the surface of the land where the solar company conducts or plans to conduct activities. Such a waiver commits the mineral rights holder to abstain from using his or her implied easement over the surface of the land, as such use would disrupt the solar development.[23] The easiest way for a developer to secure a waiver of surface rights is to execute a solar lease with a landowner who owns 100% of the mineral rights to the land and ask that landowner to sign a surface rights waiver. More commonly, though, a landowner owns only a portion or none of the land's mineral rights. In these cases, the solar company must obtain surface rights waivers affecting at least 50% of the mineral rights to convince a title company to insure the title to the solar project.[24] The solar company usually

---

[19] The "occupied area" constitutes the part of the leased land actually covered by the solar panels and generally surrounded by a chain link fence.

[20] See Appendix A, Solar Lease Template, pg. 11

[21] Id., 3

[22] Tiffany Dowell, Texas Supreme Court: Duty of Executive Rights Holder to Non-Participating Royalty Owner, Texas A&M AgriLife Extension (Apr. 20, 2015) https://agrilife.org/texasaglaw/2015/04/20/texas-supreme-court-duty-of-executive-rights-holder-to-non-participating-royalty-owner/

[23] Mineral Issues' Impact on Solar Energy Development in Texas and Other States (2013 Update), Stahl, Bernal & Davies (2013) http://sbaustinlaw.com/wp-content/uploads/2016/08/Mineral-Estate-Issues-2013-Update-with-Exec-Summary.pdf

[24] Fifty percent is an arbitrary figure established by title companies. A mineral rights holder who has not signed a waiver of surface rights may sue an executive mineral rights holder for breach of fiduciary duty regardless of how many other mineral rights holders have signed waivers.

obtains these waivers by paying the mineral rights holders.

However, a mineral rights holder with executive rights always owes non-executive mineral rights and royalty holders a duty of utmost good faith and fair dealing,[25] so signing a surface rights waiver may be a dangerous proposition for an executive rights holder. For example, if a mineral rights holder with executive rights signs a waiver of surface rights where at least one non-executive mineral owner also has an interest in the extraction of minerals from the land, the executive rights holder almost certainly violates his or her duty of utmost good faith and fair dealing.[26] Consequently, an attorney representing a landowner who owns only a portion of the land's mineral rights, needs to be cognizant that his or her client will face significant liability if these issues are not adequately addressed. To avoid such issues, landowner attorneys may demand that the solar company set aside designated drilling areas to allow for the extraction of minerals, thereby satisfying duties of good faith and fair dealing.[27]

### F. Payment of Taxes

Because the State of Texas does not collect state income tax, much of the state's revenue comes from ad valorem taxes, which are higher than in many other states. However, land used for agriculture in Texas qualifies for an agricultural tax exemption, colloquially known as an "ag exemption," which offsets these high property taxes. Most, though not all, solar development occurs on relatively remote agricultural land. The installation of solar facilities both increases the value of this land for tax purposes and results in the loss of the valuable ag exemption.

The loss of the ag exemption first became an issue in Texas during the wind boom that occurred during first decade of the 2000s. Increased property values and the loss of the ag exemption meant that landowners who had entered into lease agreements with wind developers received shockingly high tax bills. Consequently, wind leases evolved to include a clause calling for the wind company to reimburse the landowner for any increase to the landowner's ad valorem taxes that resulted from the company's development of the land – including increases related to the loss of the agricultural tax exemption. This clause typically specifies that the wind company shall not be liable for tax increases related to improvements to the land made by the landowner.

Because solar developments cover the land and make it unusable for other purposes, they are even more likely than wind developments to result in the loss of the ag exemption – at least for the "occupied area" of the development where the solar panels and other infrastructure are located. When a landowner loses the ag exemption, he or she also becomes liable for a "rollback tax." This means that the landowner will have to pay the county tax assessor 1) all tax savings ascribed to the state's "open space" tax appraisal method for the previous five years and 2) all tax savings ascribed to the state's "agricultural use" appraisal method for the previous three years. These tax obligations include interest on the previous years' tax (at a rate of 7% per year) and take the form of a tax lien to secure payment.[28]

Insofar as it affects the landowner's relinquishment of rights to use or control the land, the execution of a solar lease is akin to selling the land outright. Thus, the assumption of the tax burden associated with the land should shift from the landowner to the person or entity that controls the land. To achieve this shift, the tax section of a solar lease should specify that the solar developer assumes responsibility for all rollback taxes as well as for all ad valorem taxes once construction or commercial operations begin. A common lease provision addressing this point may say: "Tenant shall pay all real and personal property taxes assessed against the Property occupied by Tenant's Solar Facilities after the Commercial Operations Date."[29]

### G. Removal Bond

A removal bond is a feature found in nearly every renewable energy lease negotiated in the last decade. The removal bond arose out of landowner concerns about property restoration following 1) the termination of a lease or 2) the decommissioning of a utility-scale electricity generation project. Removal bonds mandated in solar leases serve as security for the removal of solar-related improvements at either of these two points.

The security itself may take the form of a bond, letter of credit, or guarantee from a creditworthy entity in an amount equal to a reasonable estimate of the cost to remove the facilities from the property and restore the property pursuant to the restoration clause of the lease.

---

[25] See *Lesley v. Veterans Land Board,* 352 S.W.3d 479 (Tex. 2011); See also *KCM Financial LLC v. Bradshaw*, 457 S.W.3d 70 (Tex. 2015) and *Texas Outfitters v. Nicholson*, 2017 WL 2124494 (Tex. App.- San Antonio, 2017).

[26] See *Lesley v. Veterans Land Board,* 352 S.W.3d 479 (Tex. 2011); See also *KCM Financial LLC v. Bradshaw*, 457 S.W.3d 70 (Tex. 2015) and *Texas Outfitters v. Nicholson*, 2017 WL 2124494 (Tex. App.- San Antonio, 2017).

[27] Naturally, the mineral issues discussed do not apply if the landowner does not own any minerals or does not own the executive right. In that scenario, the burden is on the developer to ensure that adequate waivers and agreements are reached with the actual mineral owners.

[28] Tiffany Dowell, Special Use Valuation in Texas (Part 1): The Basics, Texas A&M AgriLife Extension (Nov. 7, 2016) https://agrilife.org/texasaglaw/2016/11/07/special-use-valuation-texas-part-basics/

[29] See Appendix A, Solar Lease Template, pg. 14

A bond in the amount of the full removal and restoration cost is preferable, but bonds for the net removal cost less the salvage value of the improvements are not uncommon. A typical removal bond clause includes a provision to settle good faith disputes as to the cost of removal or salvage value, usually by calling for a county judge with jurisdiction in the county where the land is located to appoint a disinterested, third-party engineer to make the necessary financial determinations if the parties cannot agree. This third-party engineer will set the amount of the bond and may readjust it periodically depending on how the clause reads.

The lease also specifies a date on which the solar company must furnish the bond. This date usually falls between the tenth and twentieth anniversary of the effective date of the lease, though some leases require an earlier posting date.[30]

### H. Indemnity

All solar leases include an indemnity clause that assures the landowner that the solar company will indemnify and hold harmless the landowner from all lawsuits arising from the company's use of the land. A solar lease indemnity clause does not differ much from a wind lease indemnity clause except that the clause in a solar lease should explicitly cover suits by owners of non-executive mineral and royalty rights, as the nature of solar development (at least in the occupied area) precludes most oil and gas exploration. This preclusion leaves landowners with significant liability concerns if it is not adequately addressed in the indemnity clause.[31]

### I. Choice of Law and Venue

In the case of a dispute, the "choice of law" that applies to the dispute and the venue in which the dispute is heard are critical. A landowner attorney should ensure that all solar leases specify that Texas law will apply to any dispute and that the state courts in the county where the land is located will resolve the dispute.[32] The absence of a provision specifying the choice of law and venue leave open the possibility that a foreign or out-of-state solar company might seek to apply another state's law to the dispute – likely increasing the complexity and expense of litigation for the landowner – or to include a provision requiring arbitration in some far-off city where landowners would have to resolve their disputes through a procedure unfamiliar to them.

## IV. CONCLUSION

Based on the volume and variety of solar leases that have proliferated in Texas over the last several years, the trajectory of the solar energy industry appears to parallel the trajectory of the wind energy industry in the early 2000s. As the solar industry grows, lease forms will likely become more standardized and more landowner friendly. Hopefully, this article will serve as a catalyst in this process.

## V. APPENDICES

Disclaimer: Insofar as the authors are aware, no solar lease or solar memorandum forms have been published to date. In fact, most solar companies have their own distinct forms, which are confidential. The authors of this paper have created the following forms, which they believe to include the major terms generally seen in solar leases, for illustrative purposes only. These forms, or any parts thereof, should not be employed for any legal purpose unless a licensed attorney has independently analyzed both the forms and the fact situation at hand. Moreover, the authors do not intend for this paper or its appendices to serve as legal advice to any party or parties.

### A. Solar Lease

### B. Solar Memorandum

[30] Id., 14

[31] Id., 24-25

[32] Id., 28