

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OR ALL OF THE FOLLOWING INFORMATION FROM ANY INSTRUMENT THAT TRANSFERS AN INTEREST IN REAL PROPERTY BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

After recording, return to:

KCE TX 26, LLC

Attn: Legal Department

25 Monroe St., Ste 300

Albany, NY 12210

AMENDMENT NO. 1 TO
ENERGY STORAGE LEASE AND EASEMENT AGREEMENT AND
MEMORANDUM OF ENERGY STORAGE LEASE AND EASEMENT AGREEMENT

This Amendment No. 1 to Energy Storage Lease and Easement Agreement and Memorandum of Energy Storage Lease and Easement Agreement (this “**Amendment**”) is entered into to be effective as of December 21, 2022 (the “**Amendment Effective Date**”), between the **Carlton Biermann and Anita Biermann Revocable Trust under instrument dated March 26, 2014 (“Owner”)**, and **KCE TX 26, LLC**, a Delaware limited liability company (“**Lessee**”). Capitalized terms used herein and not defined shall have the meanings ascribed to them in the Original Agreement (defined below).

Recitals

A. Owner and Lessee entered into that certain Energy Storage Lease and Easement Agreement dated December 22, 2020 (the “**Original Agreement**”), as evidenced by Memorandum of Energy Storage Lease and Easement Agreement dated December 14, 2020, which was recorded on January 11, 2021 as Document Number 351144 of the Official Public Records of Kendall County, Texas (the “**Memorandum**”), regarding certain real property more particularly described in the Original Agreement and the Memorandum located in Kendall County, Texas (the “**Property**”).

B. Owner and Lessee desire to amend the Original Agreement and Memorandum as described in this Amendment.

NOW THEREFORE, for and in consideration of mutual covenants and agreements of the parties contained in the Original Agreement, the Memorandum and this Amendment and other good and valuable consideration, the receipt and sufficiency of which are agreed and acknowledged, the parties agree as follows:

1. The Property. Exhibits A to the Original Agreement and the Memorandum are hereby deleted and replaced with Exhibit A attached hereto and incorporated by reference herein.

2. Development Term. The Development Term is hereby extended an additional one year so that it shall expire on December 22, 2023. Development Fees due for the last year of the Development Term shall be in the amount shown on Exhibit B attached hereto, which amount shall be redacted from the version of this Amendment recorded in the Official Public Records. For the avoidance of doubt, the Original Agreement is hereby reinstated effective as of the Amendment Effective Date.

3. This Amendment may be recorded by Lessee in the Official Public Records of Kendall County, Texas.

4. Lessee and Owner confirm and ratify all of the terms of the Original Agreement and Memorandum, as amended by this Amendment. As amended by this Amendment, the Original Agreement and Memorandum shall remain in full force and effect and be binding upon Lessee and Owner in accordance with its terms. Lessee and Owner agree to execute and deliver such additional documentation and take such actions as may be necessary to evidence and effectuate the agreement of the parties set forth in this Amendment. This Amendment will be binding upon and will inure to the benefit of the parties hereto and their respective successors and assigns. This Amendment may be executed in multiple counterparts, each of which will be deemed an original and all of which taken together will constitute but a single instrument. Additionally, the parties, and any third party, may rely on a copy or facsimile of an executed counterpart as if such copy or facsimile were an original.

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Executed and delivered to be effective as of the Amendment Effective Date.

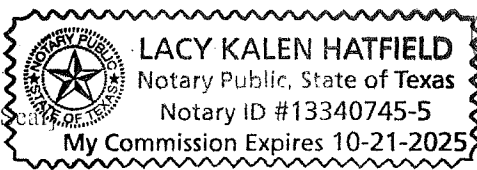
OWNER:

CARLTON BIERMANN AND ANITA BIERMANN
REVOCABLE TRUST UNDER INSTRUMENT DATED
MARCH 26, 2014

By: *Gregory W. Biermann*
Name: Gregory W. Biermann
Its: Trustee
Date signed: 12/20/2022

THE STATE OF Texas §
§
COUNTY OF Herr §

On the 20th day of December in the year 2022, before me, the undersigned notary public, personally appeared **Gregory W. Biermann**, Trustee of the Carlton Biermann and Anita Biermann Revocable Trust under instrument dated March 26, 2014, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, he executed the instrument on behalf of said trust.

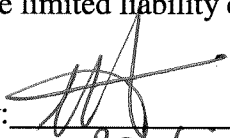


LACY KALEN HATFIELD
Notary Public, State of Texas
Notary ID #13340745-5
My Commission Expires 10-21-2025

Lacy Kalen Hatfield
Notary Public, State of Texas

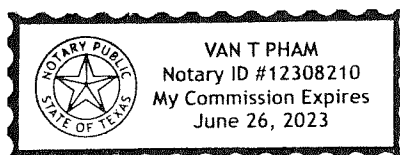
LESSEE:

KCE TX 26, LLC,
a Delaware limited liability company

By: 
Name: Beatriz Roberts
Title: Director, Development
Date signed: 12/28/22

THE STATE OF TX §
§
COUNTY OF Harris §

On the 28 day of Dec. in the year 20 22 before me, the undersigned, personally appeared Beatriz Roberts, Director of KCE TX 26, LLC, a Delaware limited liability company, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that they executed the same in their capacity, and that by his/her signature on the instrument, the limited liability company, executed the instrument.



[Seal]



Notary Public, State of Texas

Exhibit A

Description of the Property

LEGAL DESCRIPTION

BEING an 8.000 acre (348,480 square foot) tract contained within the Justa Esqueda Survey, Abstract No. 157, Kendall County, Texas, and being part of that certain tract of land described as Tract One in a General Warranty Deed to Carlton A. Biermann and Anita C. Biermann, Trustees of the Carlton Biermann and Anita Biermann Revocable Trust as recorded in Volume 1409, Page 1019 of the Official Records of Kendall County Texas, said 8.000 acre tract being more particularly described as follows:

COMMENCING at a 1/2-inch iron rod found for the northeast corner of said Tract One and the southeast corner of that certain tract of land described in a Warranty Deed with Vendor's Lien to Michael Wayne Guthrie and Catherine Marie Guthrie as recorded in Volume 1717, Page 337 of the Official Records of Kendall County, Texas, said point being in the west line of that certain tract of land described in a deed to Gerald R. Herbst and Dorothy F. Herbst as recorded in Volume 79, Page 129 of the Deed Records of Kendall County Texas, said point also having a grid coordinate of N:13,906,650.45 and E:2,006,393.73;

THENCE S 89°51'24" W, along the south line of said Guthrie tract, a distance of 309.41 feet to a 1/2-inch iron rod found for corner;

THENCE S 89°56'12" W, continuing along the south line of said Guthrie tract, a distance of 189.59 feet to a 1/2-inch iron rod found for the **POINT OF BEGINNING**, said point having a grid coordinate of N:13,906,649.47 and E:2,005,894.73;

THENCE departing the south line of said Guthrie tract, and over and across said Tract One, the following three (3) calls:

S 00°09'54" E, a distance of 364.32 feet to a 5/8" iron rod with yellow cap stamped "Colliers Prop Cor";
S 62°48'43"W, a distance of 624.07 feet to a 5/8" iron rod with yellow cap stamped "Colliers Prop Cor";
S 89°54'20" W, a distance of 121.55 feet to a 5/8" iron rod with yellow cap stamped "Colliers Prop Cor" in a barbed wire fence line on the apparent easterly line of Flat Rock Creek Road (by use and occupation);

THENCE N 00°05'40" W, along said fence line and the apparent easterly line of said Flat Rock Creek Road, a distance of 337.93 to a fence post found for corner;

THENCE N 13°13'02" E, continuing along said fence line and the apparent easterly line of said Flat Rock Creek Road, a distance of 318.43 feet to a 5/8" iron rod with yellow cap stamped "Colliers Prop Cor" in the south line of said Guthrie tract;

THENCE N 89°50'06" E, departing the apparent easterly line of said Flat Rock Creek Road and along the south line of said Guthrie tract, a distance of 603.37 feet to the **POINT OF BEGINNING**, containing 8.000 acres (348,480 square feet) of land, more or less.

**Kendall County
Denise Maxwell
Kendall County
Clerk**

Instrument Number: 376840

eRecording - Real Property

AMENDMENT

Recorded On: January 10, 2023 10:09 AM

Number of Pages: 7

" Examined and Charged as Follows: "

Total Recording: \$46.00

******* THIS PAGE IS PART OF THE INSTRUMENT *******

Any provision herein which restricts the Sale, Rental or use of the described REAL PROPERTY
because of color or race is invalid and unenforceable under federal law.

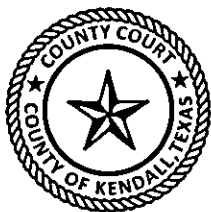
File Information:

Document Number: 376840
Receipt Number: 20230110000007
Recorded Date/Time: January 10, 2023 10:09 AM
User: Christine M
Station: CCLERK02

Record and Return To:

Simplifile
5072 North 300 West

PROVO UT



**STATE OF TEXAS
COUNTY OF**

**I hereby certify that this Instrument was FILED In the File Number sequence on the date/time
printed hereon, and was duly RECORDED in the Official Records of Kendall County, Texas.**

Denise Maxwell
Kendall County Clerk
Kendall County, TX

Denise Maxwell