

WHEN RECORDED, RETURN TO:

Rocky Mountain Power  
Property Management Dept  
Attn: Lisa Louder / Mike Wolf  
1407 West North Temple, suite 110  
Salt Lake City, Utah 84116  
Parcel No. UTSL-0848  
File No. 6071660  
Tax ID No. 27-13-100-*DUP*

12343735  
8/16/2016 1:31:00 PM \$20.00  
Book - 10464 Pg - 6519-6524  
Gary W. Ott  
Recorder, Salt Lake County, UT  
COTTONWOOD TITLE  
BY: eCASH, DEPUTY - EF 6 P.

### RESTRICTIVE EASEMENT

For the sum of Ten Dollars (\$10.00) and other good and valuable consideration Rocky Mountain Power, an unincorporated division of PACIFICORP, successor in interest to Utah Power & Light Company, whose address is 1407 West North Temple, Salt Lake City, Utah, 84116 ("GRANTOR"), hereby CONVEYS to, SOJO HOTEL PARTNERS, LLC, a Utah limited liability company, ("GRANTEE"), a perpetual easement and right of way for the construction, continued use (including vehicular and pedestrian access) and operation, maintenance and repair of one (1) hotel porte-cochere in connection with the hotel to be constructed at 10333 South Jordan Gateway, South Jordan, Utah 84095, in, on, and/or across the following described real property (referred to herein as the "Easement Area") owned by Grantor located in Salt Lake County, State of Utah, to-wit:

Beginning at a point on the West boundary of SOJO Subdivision said point lies South 00°54'50" west 564.00 feet along the Section line and west 641.43 feet from the Northeast corner of the Northwest quarter of Section 13, Township 3 South, Range 1 West, Salt Lake Base and Meridian,

thence South 13°43'02" East, a distance of 53.53 feet; thence west, a distance of 29.46 feet to the edge of concrete roadway as defined in South Jordan City and Rocky Mt. Power deed field in book 9855 page 3544; thence North 13°45'02" West, a distance of 8.04 feet; thence North, a distance of 44.19 feet; thence East, a distance of 18.67 feet to the point of beginning.

Containing 1,294 square feet or 0.03 acres, more or less.

This easement and right-of-way is granted subject to the following restrictive covenants and conditions:

1. Grantee, its successors and assigns, will not make or allow to be made any use of the easement herein granted that is inconsistent with, or interferes in any manner with Grantor's operation, maintenance or repair of Grantor's existing installations or additional facilities or

improvements constructed after the granting of this easement, including electric transmission and distribution circuits that cross over or above the property as herein described.

2. Grantee, its successors and assigns, will not use or permit to be used on said Easement Area construction cranes or other equipment that violate OSHA and Utah High Voltage Act Safety Clearance Standards. Grantee shall not store materials within the Easement Area. Grantee will not excavate within 50 feet of Grantor's transmission structures without the express written prior approval of Grantor. The storage of flammable and hazardous materials or refueling of vehicle/equipment is prohibited within the Easement Area. At no time shall Grantee place any equipment or materials of any kind that exceeds seventeen feet, two inches (17'2") in height, or that creates a material risk of endangering Grantor's facilities, or that may pose a risk to human safety. Grantee's use of the Easement Area shall comply with OSHA and the Utah High Voltage Act Safety Clearance Standards.

3. It is explicitly understood that Grantee shall not allow public access of any kind on or above the hotel porte-cochere. It is also explicitly understood that Grantee's maintenance and/or repairs on the hotel porte-cochere shall be in strict compliance with OSHA and the Utah High Voltage Act Safety Clearance Standards. Grantee shall install two 6-inch PVC conduits spaced 3-feet apart extending to the power pole structures located either side of the Porte-cochere to accommodate Grantor's future distribution circuits, and shall obtain all necessary right of way from adjacent landowners to accommodate the two 6-inch conduits, all at Grantee's sole cost and expense.

#### 4. Abandonment:

(a) In the event the hotel porte-cochere, or part thereof within the Easement Area is removed or damaged beyond repair, Grantee shall not have the right to replace the hotel porte-cochere without Grantor's prior written approval, which shall not be unreasonably withheld. In such event, the replacement porte-cochere shall be substantially identical to the porte-cochere as existed before the damage. Damaged beyond repair shall be defined as damage to the portion of the porte-cochere within the Easement Area which exceeds fifty percent (50%) of its depreciated value at the time of the damage, or any damage deemed a total loss for the purpose of insurance coverage.

(b) In the event Grantee ceases to use the property herein described for purposes of a hotel porte-cochere, for one year or 365 consecutive days, this easement shall thereupon immediately terminate, with all rights and interest conveyed herein by Grantor to revert back to Grantor without instrument of disclaimer from Grantee, or its successors or assigns.

5. Subject to the rights granted to Grantee in this Easement, Grantor shall have the right, at any time and from time to time, to cross and recross with equipment, personnel, overhead power lines or underground power lines and access roads, at any location or locations thereon, the lands included with the easement herein conveyed by Grantor to Grantee.

#### 6. Release and Indemnification

(a) Grantee, its successors and assigns, shall use the Easement Area at its own risk and agrees to indemnify, defend and hold harmless Grantor and Grantor's affiliated companies, officers, directors, shareholders, agents, employees, successors and assigns, (the "Indemnified Parties") for, from and against all liabilities, claims, damages, losses, suits, judgments, causes of action, liens, fines, penalties, costs, and expenses (including, but not limited to, court costs, attorney's fees, and costs of investigation), of any nature, kind or description, directly or indirectly arising out of, caused by, or resulting from (in whole or in part), (i) the breach by Grantee of any provision of this agreement, (ii) Grantee's use and occupation of the Easement Area, or (iii) any act or omission of Grantee, any independent contractor retained by Grantee, anyone directly or indirectly employed by them, or anyone authorized by Grantee to control or exercise control over (hereinafter collectively referred to as "claims"), even if such claims arise from or are attributed to the concurrent negligence of any of the Indemnified Parties, but excluding claims due to the gross negligence or willful misconduct of any Indemnified Party.

(b) The Indemnified Parties shall never be liable in any manner to Grantee for any injury to or death of persons or for any loss of or damage to property of Grantor, its employees, agents, customers, invitees, or to others, even if such loss or damage is caused in part by the negligence of any Indemnified Party, but may be held liable in the event of gross negligence or willful misconduct. All personal property and fixtures, if allowed by Grantor, located within the Easement Area shall be maintained and used at the risk of Grantee and the Indemnified parties shall not be liable for any damage thereto or theft thereof, even if due in whole or in part to the negligence of the Indemnified Parties, but may be held liable in the event of gross negligence or willful misconduct.

7. Taxes and Assessments. Grantee shall pay all taxes and assessments of any kind which shall be levied against the Easement Area specifically by reason of Grantee's use or occupancy thereof, except those being contested in good faith, and shall keep the Easement Area free from any liens that may attach thereto by reason of Grantee's use or occupancy thereof.

8. Litigation Expense. If any suit or action arising out of or related to this Easement is brought by any party, the prevailing party or parties shall be entitled to recover the costs and fees (including, without limitation, reasonable attorneys' fees, the fees and costs of experts and consultants, copying, courier and telecommunication costs, and deposition costs and all other costs of discovery) incurred by such party or parties in such suit or action, including, without limitation, any post-trial or appellate proceeding, or in the collection or enforcement of any judgment or award entered or made in such suit or action.

9. Waiver of Jury Trial. To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising out of, under or in connection with this agreement. Each party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

10. **Runs With the Land.** Except as otherwise provided in this Easement, this Easement and the easements, rights, obligations and liabilities created hereby shall be perpetual to the extent permitted by law. All the covenants, conditions, restrictions, easements, terms and provisions hereof are and shall be deemed to be covenants running with the property described herein and shall burden and benefit such property as described herein and, with respect to such property, each owner of such property, the holders or owners of any mortgage, deed of trust or other indenture encumbering any such property, any purchaser at a foreclosure sale, any other person or entity acquiring any right, title or interest in such property and their respective heirs, executors, administrators, representatives, successors and assigns.

11. **Continuation.** Except as otherwise provided in this Easement, no breach of this Easement shall entitle any party hereto to cancel, rescind or otherwise terminate this Easement. Such limitation, however, shall not affect in any manner any other rights or remedies which such party may have hereunder by reason of such breach, including, without limitation, injunctive relief to address any denial of access or use of the respective easement parcels.

12. **Counterparts.** This Easement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.

13. **Grant of Temporary Easement.** Grantor additionally conveys to Grantee a temporary construction easement along and adjacent to said Easement Area as may be reasonably necessary in connection with the construction or repair of said hotel porte-cochere. Grantee shall instruct its contractors, agents and employees performing the work to notify Rocky Mountain Power prior to any activity on Grantor's property. Grantee shall take all necessary steps to ensure the contractor performing the work is aware of Grantor's facilities, i.e. overhead and underground power lines and any related facilities. The temporary construction easement shall terminate upon completion of the construction of the project or the expiration of three (3) years after execution of this Easement, whichever occurs first.

[signature page follows]

IN WITNESS WHEREOF, this Easement shall be dated and effective upon the date of the last signature below:

Grantor:

Rocky Mountain Power, an unincorporated division of PacifiCorp

By: 

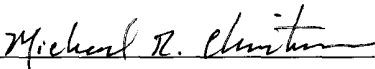
Its: Vice President T&D operations

Dated: August 15, 2016

Grantee:

SOJO HOTEL PARTNERS, LLC, a Utah limited liability company

By: TGC SoJo Partners, LLC, its Manager

By: 

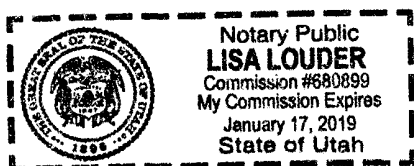
Its: Manager

Dated: August 15, 2016

ACKNOWLEDGMENT

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

On this 15<sup>th</sup> day of August, 2016, personally appeared before me Paul Radakovich, who being by me duly sworn, did say that he is the signer of the within instrument on behalf of Rocky Mountain Power, an unincorporated division of PacifiCorp, and that the within and foregoing Restrictive Easement Agreement was signed on behalf of Rocky Mountain Power by actual authority.



My commission expires:

1.17.2019

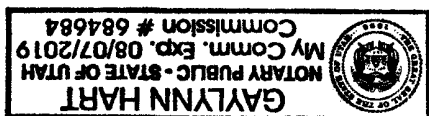
Lisa Louder  
Notary Public

Residing at Salt Lake City Utah

ACKNOWLEDGMENT

STATE OF UTAH )  
 ) ss.  
COUNTY OF SALT LAKE )

On this 15<sup>th</sup> day of August 2016, personally appeared before me Michael R. Christensen, who being by me duly sworn, did say that he is the signer of the within instrument on behalf of TGC SOJO PARTNERS, LLC, the Manager of SOJO HOTEL PARTNERS, LLC, a Utah limited liability company, and that the within and foregoing Restrictive Easement Agreement was signed on behalf of the same by actual authority.



My commission expires:

8-7-19

Gaylynn Hart  
Notary Public

Residing at Salt Lake County