

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

Rocky Mountain Power  
Lisa Louder/Delynn Rodeback  
1407 West North Temple Ste. 110  
Salt Lake City, UT 84116

Project Name: Appaloosa Solar I  
WO#: 10069012  
RW#: 2021DCR051

**CABLE AND ACCESS EASEMENT AGREEMENT**

This CABLE AND ACCESS EASEMENT AGREEMENT (this "Agreement") is made this ~~20th~~ day of May, 2022 (the "Effective Date") by and between SOUTHERN UTAH SOLAR PROPERTY III, LLC, a Utah limited liability company ("Grantor"), and ROCKY MOUNTAIN POWER, an unincorporated division of PacifiCorp ("Grantee"). Each of Grantor and Grantee is sometimes referred to as a "Party" and collectively as the "Parties."

**RECITALS**

A. Grantor is the sole owner of certain property located in Iron County, Utah, acquired by Warranty Deed (the "Deed") from Southern Utah Solar Property, LLC dated January 12, 2022 (the "Property"), which Deed was recorded on January 19, 2022 as Entry No. 00784813, Bk 1591, Pg 964 in the Official Records of Iron County, Utah (the "Records").

B. By Transmission and Access Easement Agreement dated May 23, 2022, and recorded in the Records on May 23, 2022 as Entry No.00791778, Bk 1609, Pg 1618-1628 (the "Appaloosa Easement Agreement"), Grantor granted to Appaloosa Solar I, LLC ("Appaloosa I"), a transmission line easement on, along, over, under and across a portion of the Property (such portion of the Property, the "Easement Area" as more particularly described in Exhibit A attached hereto and made part hereof) which line will serve Appaloosa I's renewable energy generating facilities and other related improvements to be constructed on lands within the vicinity of the Property (the "Appaloosa Facilities").

C. Pursuant to Appaloosa I's rights under the unrecorded Option Agreement referred to and defined in the Appaloosa Easement Agreement, and in satisfaction of Appaloosa I's obligations to Grantee under an unrecorded Standard Large Generator Interconnection Agreement between them dated January 7, 2019, as amended (the "LGIA"), to provide easement rights for a dual-purpose optical ground wire ("OPGW") cable within the Easement Area to serve the Appaloosa Facilities, Appaloosa I has requested and Grantor has agreed to provide this Agreement in favor of Grantee with respect to the Property.

D. Grantee desires to acquire, and Grantor desires to grant to Grantee, an easement for an OPGW cable to be installed on the transmission line structures authorized under the Appaloosa Easement Agreement, and operated and maintained by Grantee, within the Easement Area, which line will serve the Appaloosa Facilities and for any other lawful uses related thereto.

#### **AGREEMENT**

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises set forth below, the Parties agree as follows:

1. **Grant of Easements.** For good and valuable consideration, the legal receipt and sufficiency of which are hereby acknowledged by Grantor, effective as of the Effective Date, Grantor grants, conveys and warrants to Grantee an easement ("**OPGW Easement**") on, along, over, under and across the Easement Area for the right to erect, construct, reconstruct, replace, remove, maintain, operate and use an OPGW cable and any related facilities (the "**OPGW Line**") to be installed on the transmission line structures authorized under the Appaloosa Easement Agreement (the "**Appaloosa Transmission Facilities**"). The OPGW Easement shall also include the present and future right to: (i) enter on the Property at any time to conduct inspections, tests, studies, land surveying, title examinations, site engineering, and such other activities as Grantee reasonably deems necessary or appropriate for determining whether Appaloosa I and the OPGW Line are in compliance with the requirements of the LGIA applicable to the OPGW Line and the Property; and (ii) permit any other person, firm, corporation or other entity to attach, detach and reattach the OPGW Line to the Appaloosa Transmission Facilities and string the OPGW Line within the Easement Area. Grantor and Grantee acknowledge that Appaloosa has the right and responsibility under the Appaloosa Easement Agreement to (i) clear the Easement Area and to keep the same clear of all trees, whether natural or cultivated, and all structure supported crops, other structures, trees, brush, vegetation, fire and electrical hazards, except non-structure supported agricultural crops less than ten (10) feet in height; and (iv) top, limb, or fell, and clear, remove, sell, burn, or otherwise dispose of, "danger trees" located adjacent to the Easement Area. After transfer from Appaloosa I to Grantee pursuant to the terms of the LGIA, the OPGW Line shall constitute and shall at all times remain the sole property of Grantee or its successors. Grantor shall have no ownership or other interest in the OPGW Line or related facilities installed or located on the Property by or on behalf of Grantee, and Grantee may install, remove, maintain and replace the OPGW Line and related facilities at any time. The OPGW Easement is also for the right of ingress to and egress from the OPGW Line (whether the subject portions thereof are located on the Property or elsewhere), over and along the Property by means of roads and lanes thereon, if existing, or otherwise by such route or routes as Grantee may construct from time to time. Grantee shall also have the right to maintain and improve any such roads and lanes.

2. **Term and Termination.** Subject to the terms and conditions of this Agreement, the term of this Agreement shall be for an initial period of thirty (30) years, unless terminated by Grantee by written notice to Grantor. Grantee shall have the right and option by written notice to Grantor prior to the expiration of the then current term of this Agreement to extend the term of this Agreement for two (2) additional consecutive periods of five (5) years each. If Grantee fails to provide notice of the exercise of the option to extend the term of this Agreement, such option to extend the term of this Agreement shall not lapse and terminate unless Grantor provides written notice to Grantee of such failure and Grantee fails to exercise such option within ten (10) days after the date of receipt of

such notice from Grantor. Upon the termination of this Agreement, Grantee hereby disclaims or delegates to Appaloosa I, as applicable, the responsibility to promptly de-energize any electrical lines or facilities in, on or over the Easement Area, remove the Appaloosa Transmission Facilities and the OPGW Line from the Easement Area, and, as reasonably possible, restore said surface to the same condition as the Easement Area was in on the Effective Date.

3. Character of Easements. This Agreement and the OPGW Easement shall run with the Property, whether or not this Agreement and/or the OPGW Easement is referenced or described in any conveyance, ground lease or other instrument granting rights in, to or under all or any portion of the Property. This Agreement and the OPGW Easement shall inure to the benefit of, and be binding upon, Grantor and Grantee and their respective transferees, heirs, successors and assigns and all persons claiming under them. Any sale or other transfer of the Property by Grantor shall be subject to this Agreement and the OPGW Easement. The grant of the OPGW Easement is irrevocable, and Grantor has no right to terminate this Agreement. Grantor further agrees with respect to the OPGW Easement that (a) no act or failure to act on the part of Grantee shall be deemed to constitute an abandonment, surrender or termination thereof except upon recordation by Grantee of a quitclaim deed or other release or termination instrument specifically terminating the OPGW Easement or conveying the OPGW Easement back to Grantor, or as otherwise may be declared by an order of a court having proper jurisdiction over this Agreement; (b) non-use of the entirety of the OPGW Easement and/or Easement Area shall not prevent the future use of the entire scope thereof in the event the same is needed; and (c) no use of or improvement to the Property or any other lands in which Grantee acquires an interest to install and operate cabling similar to the OPGW Line or otherwise benefited by the OPGW Easement, and no transfer of the OPGW Easement, shall, separately or in the aggregate, constitute an overburdening of the OPGW Easement.

4. Assignment. Grantee may assign this Agreement or its rights with respect to the OPGW Easement at any time, in whole or in part, to one or more assignees or sub-assignees to whom are assigned, and who assume, all of Grantee's rights and obligations under the LGIA, without the need for Grantor's consent. The assignor under any assignment hereunder shall be released from obligations and liabilities accruing after the date such obligations and liabilities are assumed by the assignee, to the extent assumed by the assignee. Grantee acknowledges that Appaloosa I has the right under the Appaloosa Easement Agreement to make a partial conveyance or assignment of the Appaloosa Easement Agreement to two or more persons or entities as tenants-in-common without consent of Grantor or Grantee, but without prejudice to the right of Grantee or its successors or assigns to continue to use the OPGW Line and/or roads on the Property for ingress to and egress from the OPGW Line.

5. Compliance with Laws. Grantee shall comply with all laws, regulations and rules governing the erection, construction, reconstruction, replacement, removal, maintenance, operation and use of the OPGW Line. Grantor agrees to cooperate fully and promptly with Grantee, so long as such work is accomplished at no out-of-pocket cost to Grantor.

6. Costs. All costs and expenses incident to the erection, construction, reconstruction, replacement, removal, maintenance, operation and use of the OPGW Line including the trimming and cutting of any trees and underbrush shall be borne without cost to Grantor.

7. Grantor's Right to Use the Property. Grantor retains the right to use the Property for all purposes not inconsistent with, and which will not interfere with, the rights granted to Grantee by this Agreement. Specifically, but without limiting the generality of the foregoing, (i) Grantor shall not undertake or allow any digging, tunneling or other form of construction activity in the Property which would disturb or damage or make attachments to the OPGW Line, unearth, obstruct or interfere with the operation and use of the OPGW Line or endanger the lateral support to the Easement Area or OPGW Line, and (ii) Grantor shall not grant other persons easement rights in the Property or other property owned by Grantor if such easement rights shall in any way interfere with the easement rights granted Grantee under this Agreement.

8. Indemnity. Grantee shall, at all times, save and hold harmless and indemnify Grantor, its officers, partners, agents, contractors and employees, from and against all losses, damages, expenses, claims, demands, suits and actions for personal injuries, and damage to the Property outside the Easement Area, to the extent caused by the negligence or willful misconduct of Grantee, its officers, partners, agents, contractors and employees. Grantor shall, at all times, save and hold harmless and indemnify Grantee, its officers, partners, agents, contractors and employees, from and against all losses, damages, expenses, claims, demands, suits and actions for personal injuries and property damage within the Property, to the extent caused by the negligence or willful misconduct of Grantor, its officers, partners, agents, contractors and employees.

9. Quiet Enjoyment. Grantor represents and warrants to Grantee that Grantor has good title to the Property and the Easement Area and warrants title to and quiet enjoyment of the OPGW Easement and the Easement Area by Grantee and Grantee's members, managers, agents, licensees, contractors, subcontractors, lessees, sublessees, mortgagees, successors, and assigns against the lawful claims and demands of all persons whomsoever. Grantor shall cooperate with Grantee to obtain a non-disturbance agreement or other appropriate agreement from any party that holds a lien, mortgage or deed of trust (collectively, "Liens") affecting the Property. A non-disturbance or other agreement is an agreement between Grantee and Grantee's successor and assigns and a holder of a Lien which provides that the holder of the Lien subordinates its rights under the Lien and shall not disturb or interfere with any of the rights or benefits granted under this Agreement or terminate or extinguish this Agreement.

10. Notices. All notices (including any Notice of Exercise), demands or other communications required or permitted to be given hereunder shall be in writing and shall be deemed given when (a) personally delivered or (b), in lieu of such personal service, five (5) business days after deposit in the U.S. mail, first-class, postage prepaid and certified, or (c) the next business day if sent by reputable domestic overnight courier, provided receipt is obtained and charges prepaid by the delivering Party. Any notice shall be addressed as follows:

**If to Grantor:**  
Southern Utah Solar Property III, LLC  
Attn: Russell Reber  
1293 North Ridgeway Dr.

**If to Grantee:**  
Rocky Mountain Power,  
an unincorporated division of PacifiCorp  
Attn: Delynn Rodeback, Senior ROW Agent

Cedar City, UT 84721

1407 West North Temple Street, Ste 110  
Salt Lake City, UT 84116

With a copy to:

Grant Morris Dodds  
Attn: David Grant, Esq.  
415 N. Main St., Suite 102-A  
Cedar City, UT 84721

Any Party may change its address for purposes of this Section 10 by giving written notice of such change to the other Parties in the manner provided in this Section 10.

11. Legal Matters.

(a) This Agreement shall be construed and enforced in accordance with the laws of the State of Utah, excluding the choice of law provisions thereof.

(b) The Parties agree that any rule of construction to the effect that ambiguities are to be resolved in favor of either Party shall not be employed in the interpretation of this Agreement. No waiver by a Party of any provision of this Agreement shall be deemed to be a waiver of any other provision hereof. The use of the neuter gender includes the masculine and feminine, and the singular number includes the plural, and vice versa, whenever the context so requires. The terms "include", "includes" and "including", as used herein, are without limitation. Captions and headings used herein are for convenience of reference only and do not define, limit or otherwise affect the scope, meaning or intent hereof. The term "hereof" or "herein" means the entirety of this Agreement unless otherwise indicated.

(c) 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.

(d) **NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NEITHER PARTY SHALL BE ENTITLED TO, AND EACH OF GRANTOR AND GRANTEE HEREBY WAIVES ANY AND ALL RIGHTS TO RECOVER, CONSEQUENTIAL, INCIDENTAL, INDIRECT AND PUNITIVE OR EXEMPLARY DAMAGES, HOWEVER ARISING, WHETHER IN CONTRACT, IN TORT, OR OTHERWISE, UNDER OR WITH RESPECT TO ANY ACTION TAKEN IN CONNECTION WITH THIS AGREEMENT (BUT THIS SHALL NOT LIMIT THE INDEMNITIES OF THE PARTIES CONTAINED IN THIS AGREEMENT WITH RESPECT TO THIRD PARTY CLAIMS).**

12. **Severability.** If any terms or provision of this Agreement are deemed to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby.

13. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original agreement, and all of which shall constitute one agreement.

14. **Integration; No Merger; Amendment.** This Agreement, when executed, approved and delivered, together with all exhibits attached hereto, shall constitute the entire agreement between the Parties with respect to the subject matter hereof, and there are no other representations or agreements, oral or written, with respect to the subject matter hereof, except as expressly set forth herein. This Agreement and the OPGW Easement and other rights and interests granted herein shall not merge with, and shall be independent of, any other rights which have been or may hereafter be granted to Grantee under separate instruments. This Agreement may not be amended or modified except by a written agreement signed by the Parties hereto.

15. **Further Assurances.** Each Party agrees that it will without further consideration execute and deliver such other documents and take such other action as may be reasonably requested by the other Party to consummate more effectively the purposes or subject matter of this Agreement. The Parties acknowledge and agree that the provisions of this Section and Section 18 shall survive the execution and recording of this Agreement, and the Grantee may seek specific performance of said Sections, together with such other legal and equitable remedies as may be provided by law.

16. **Inaccuracy of Legal Descriptions or Ownership.** In the event of any inaccuracy in the description of the Property described in the Deed, or of the Easement Area in Exhibit A attached hereto, respectively, or in the description of the parties in whom title to the Property is vested, Grantor and Grantee shall amend this Agreement to correct such inaccuracy in order to accomplish the intent of Grantor and Grantee.

17. **Remedies.** In addition to any remedies expressly set forth in this Agreement, Grantor and Grantee shall be entitled to all remedies available in law or in equity and any court enforcing the rights and duties granted in this Agreement shall have the power (insofar as that power may be granted by contract) to issue restraining orders or injunctions as necessary to enforce the provisions of this Agreement; provided, however, that neither this Agreement nor the rights of Grantee granted hereunder shall be terminated under any circumstances.


18. Recording. Grantor and Grantee agree that this Agreement shall be recorded in the official real property records in and for Iron County, Utah.

*[signature pages follow]*

IN WITNESS WHEREOF, and intending to be legally bound hereby, Grantor and Grantee have caused this Agreement to be executed and delivered by their duly authorized representatives on the date set forth below the respective signatures of Grantor and Grantee, effective as of the Effective Date.

**GRANTOR:**

**SOUTHERN UTAH SOLAR PROPERTY III,  
LLC, a Utah limited liability company**


By:   
Name: Russell Reber  
Title: Manager

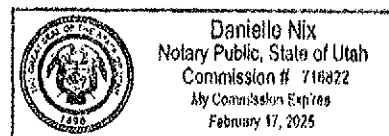
**ACKNOWLEDGMENT**

State of Utah )  
County of Iron )

On this 20<sup>th</sup> day of May, in the year 2022, before me the undersigned Notary Public in and for said State, personally appeared Russell Reber, known or identified to me to be the Manager of the limited liability company that executed the instrument or the person who executed the instrument on behalf of said limited liability company and acknowledged to me that such limited liability company executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

  
(notary signature)  
Residing at: Cedar City, UT  
My commission expires: 2-17-25



*[Signature Page to Cable and Access and Easement Agreement]*



IN WITNESS WHEREOF, and intending to be legally bound hereby, Grantor and Grantee have caused this Agreement to be executed and delivered by their duly authorized representatives on the date set forth below the respective signatures of Grantor and Grantee, effective as of the Effective Date.

**GRANTEE:**

Acknowledged and Agreed

**ROCKY MOUNTAIN POWER, AN  
UNINCORPORATED DIVISION OF  
PACIFICORP**

By: [Signature]  
Name: Dorothy Rodenbach  
Title: SR. Property Agent

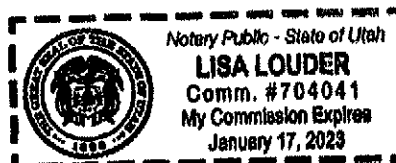
**ACKNOWLEDGMENT**

State of Utah  
County of Salt Lake

On this 26<sup>th</sup> day of May, in the year 2022, before me the undersigned Notary Public in and for said State, personally appeared Dorothy Rodenbach known or identified to me to be the SR. Property Agent of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

[Signature]  
(notary signature)  
Residing at: Salt Lake  
My commission expires: 1.17.2023



*[Signature Page to Cable and Access and Easement Agreement]*

**EXHIBIT A**  
**DESCRIPTION OF EASEMENT AREA**

A strip of land in Iron County, Utah described as follows:

BEGINNING AT A POINT NORTH 00°00'11" EAST ALONG THE SECTION LINE 408.70 FEET FROM WEST QUARTER CORNER OF SECTION 25, TOWNSHIP 34 SOUTH, RANGE 12 WEST, SALT LAKE BASE AND MERIDIAN; RUNNING THENCE NORTH 00°00'11" EAST ALONG SAID SECTION LINE 181.11 FEET; THENCE LEAVING SAID SECTION LINE RUNNING THENCE NORTH 55°55'11" EAST, 60.37 FEET; RUNNING SOUTH 00°00'11" WEST PARALLEL TO SAID SECTION LINE 181.11 FEET ;THENCE SOUTH 55°55'11" WEST, 60.37 FEET TO THE POINT OF BEGINNING. CONTAINING 0.21 ACRES.

Portion of A.P.N. E-0064-0014-0000

*[Exhibit A to Cable and Access Easement Agreement]*