

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

RIGHT-OF-WAY LEASE

(Lessee Name & Address)

THIS LEASE, by and between the UNITED STATES OF AMERICA, acting through the Bureau of Land Management, Department of the Interior (hereinafter called the "United States" or "Bureau of Land Management"/"BLM"), as authorized by Title V of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 United States Code (USC) 1761) and its implementing regulations (43 Code of Federal Regulations (CFR) Part 2800), and _____, its agents, successors, and assigns (hereinafter called the "Lessee"). This Lease incorporates by reference, any requirements identified in the Notice of Competitive Offer dated _____. The exhibit(s), attached hereto, are also incorporated into, and made a part of this instrument as fully and effectively as if they were set forth herein in their entirety.

List of Exhibits:

- A – Legal Description
- B – Map(s)
- C – Stipulations
- D – Approved Plan of Development (Incorporated Post Lease)

The United States and the Lessee are jointly referred to herein as the "Parties." As used herein, the "Authorized Officer" refers to the BLM official having the delegated authority to execute and administer this lease. Generally, unless otherwise indicated, such authority may be exercised by the District Manager or Field Manager for the District or Field Office within whose jurisdiction the following described lands are located.

The United States, for and in consideration of the terms and conditions contained herein and the payment to the United States of a rent in advance by the Lessee, does hereby grant to the Lessee a lease for the following described lands in the County of _____, State of _____ as described in Exhibit A, Legal Descriptions (hereinafter called the "property"), containing _____ acres, more or less. The location of this property is within a designate leasing area referred to as the _____.

The Lessee accepts this lease and possession of the property, subject to any valid existing rights, and agrees not to use the property, or any part thereof, except as a site for only the construction, operation, maintenance, and termination of a _____

energy development facility as described in the Approved Plan of Development. This lease does not authorize the Lessee to occupy, or to construct or operate any facilities on, any lands outside of the property.

The parties agree that this lease is made subject to the following terms and conditions.

I. TENURE, RENEWAL, AND TRANSFERABILITY

- A. This lease will expire at one minute after midnight on _____, unless, prior thereto it is relinquished, abandoned, terminated, or modified pursuant to the terms and conditions of this lease or any applicable Federal law or regulations. Termination at the end of the lease term occurs by operation of law and does not require any additional notice or documentation by the Authorized Officer.
- B. Lessee may submit an application for renewal, which must be received by the Authorized Officer at least one year prior to the end of the lease term with an explanation why a renewal of the lease is necessary, consistent with 43 CFR. 2807.22. The Authorized Officer will review the application for renewal to ensure the Lessee is complying with the terms, conditions, and stipulations of this lease and applicable laws and regulations. If renewed, the lease shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the Authorized Officer deems necessary to protect the public interest.
- C. The Lessee will undertake and pursue with due diligence construction and operation that is authorized by this lease. In particular, lessee must start construction within five years and begin generation of electricity no later than seven years from the date of this lease, as specified in the Approved Plan of Development, consistent with 43 CFR 2809.18(g). A request for an extension may be granted for up to three years with a show of good cause and must be approved by the Authorized Officer. This lease will terminate if the lessee does not comply with these requirements unless the parties agree in writing, in advance, to an extension of the commencement date.

In the event that phased development is approved, construction of each subsequent phase must begin within three years of the start of construction of the previous phase unless otherwise provided in the Approved Plan of Development, consistent with 43 CFR 2805.12(c)(3)(ii). A Notice to Proceed (Form 2800-15) will be required to be issued by the Authorized Officer for each phase of development. The Notice to Proceed for a particular phase of development may be subject to the issuance of additional Notices to Proceed for specific activities within the development phases.

- D. The BLM may change the terms and conditions of this lease as a result of changes in legislation, regulations, or as otherwise necessary to protect public health or safety or the environment.
- E. Consistent with applicable law, regulation, and policy, this lease may be assigned if approved in writing by the BLM's Authorized Officer.
- F. Notwithstanding the expiration of this lease or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this lease to the extent applicable, shall continue in effect and shall be binding on the Lessee, its successors, or assigns, until the obligations or liabilities accruing under these provisions have been fully satisfied.

II. RENT AND OTHER FEES

- A. For and in consideration of this lease, the Lessee must pay, in advance, an initial rent comprised of all annual acreage rents and fees determined by the Authorized Officer in accordance with applicable law, regulation, and policy.
- B. After the initial rent period, rent payments are due at the close of the first business day after January 1 of each calendar year for which a payment is due. In the event that a payment is not received by the due date, the BLM will pursue collection by all appropriate methods, and when appropriate, will assess late payment fees, interest, administrative costs, administrative penalties, and civil penalties on past due amounts, as prescribed by law or regulation. Disputed rent and fees are due and payable on or before the due date.

- C. Rent and fee payments can be made by Electronic Fund Transfer (EFT) via automated clearing house (ACH) or by check, money order payable to Department of the Interior – Bureau of Land Management.
- D. Cost Recovery. The Lessee is obligated to pay cost recovery amounts due to the BLM or other Federal agency in accordance with applicable laws and regulations.

III. RESPONSIBILITIES OF THE LESSEE

- A. The Lessee must submit a Plan of Development within the two years of the lease date as identified in the regulations at 43 CFR 2809.18(c).
- B. The Lessee will not initiate any construction or other ground-disturbing activities on the lease without the prior written authorization of the Authorized Officer, in the form of a Notice to Proceed. Each Notice to Proceed will authorize construction or use and occupancy only as therein expressly stated and only for the particular location of use and occupancy therein described. The Authorized Officer will issue a Notice to Proceed, subject to such terms and conditions as he or she deems necessary, when the design, construction, use, occupancy, and operation proposals conform to this lease's terms and conditions. The Authorized Officer may suspend or terminate in whole, or in part, any Notice to Proceed when, in his or her judgment, unforeseen conditions arise which result in the approved terms and conditions being inadequate to protect the public health and safety or to protect the environment and may require such activities as necessary to protect the public health and safety or to protect the environment.
- C. All development, operation, and maintenance of the authorized facility, improvements, and equipment located on the property must be in accordance with the terms, conditions, and stipulations of this lease and the Plan of Development approved by the Authorized Officer. If required by the BLM, all plans for development, layout, construction, or alteration of improvements on the property, as well as revisions of such, must be prepared by a licensed engineer, architect, or landscape architect, as deemed appropriate by the Authorized Officer. Such plans must be approved in writing by the Authorized Officer before the commencement of any work. After completion, as-built plans, maps, surveys, or other similar information must be provided to the Authorized Officer and appended to the lease or Plan of Development.
- D. The Lessee must comply with all applicable Federal, State, county, and municipal laws, regulations, and standards for public health and safety, environmental protection, siting, construction, operation, maintenance, and termination in exercising the rights granted by this lease.
- E. The Lessee shall perform all operations in a manner that ensures the protection of the environment and the health and safety of the public. The Authorized Officer may order an immediate temporary suspension of operations, orally or in writing, in accordance with 43 CFR 2807.16 to protect public health or safety or the environment if he or she determines that the Lessee has violated one or more of the terms, conditions, or stipulations of this lease. An immediate temporary suspension order is effective until the Lessee has addressed the violation and any related impacts and receives a written Notice to Proceed from the Authorized Officer.
- F. The Lessee must maintain all onsite equipment and facilities in accordance with the Approved Plan of Development. The Lessee must repair and place into service or remove from the site damaged or abandoned facilities that have been inoperative for any continuous period of three months and present an unnecessary hazard to the public lands. The Lessee must take appropriate remedial action within 30 days after receipt of a written noncompliance notice unless you have been provided an extension of time by the BLM. Alternatively, the Lessee must show good cause for any delays in repairs, use, or removal; estimate when corrective action will be completed; provide evidence of diligent operation of the facilities; and submit a

written request for an extension of the 30-day deadline.

- G. The Lessee's obligations under this lease are not contingent upon any duty of the Authorized Officer or other agent of the United States to inspect the premises. A failure by the United States, or other governmental officials, to inspect the premises is not a defense to noncompliance with any of the terms or conditions of this lease. Lessee waives all defenses of laches or estoppel against the United States.
- H. The Lessee must at all times keep the title of the United States to the property free and clear of all liens and encumbrances.

IV. LIABILITIES

- A. The Lessee assumes all risk of loss to any improvements authorized under this lease.
- B. The Lessee must comply with all applicable Federal, State, and local laws, regulations, and standards, including but not limited to, the Federal Water Pollution Control Act, 33 USC 1251 et seq., the Resource Conservation and Recovery Act, 42 USC 6901 et seq., the Comprehensive Environmental Response, Control, and Liability Act, 42 USC 9601 et seq., and other relevant environmental laws, as well as public health and safety laws and other laws relating to the siting, construction, operation, maintenance and termination of any facility, improvement, or equipment on the property.
- C. The Lessee will indemnify, defend, and hold the United States harmless for any violations incurred under any such laws and regulations or for judgments, claims, or demands assessed against the United States in connection with the Lessee's use or occupancy of the property. The Lessee's indemnification of the United States shall include any loss by personal injury, loss of life, or damage to property in connection with the occupancy or use of the property during the term of this lease. Indemnification shall include but is not limited to the value of resources damaged or destroyed; the costs of restoration, cleanup, or other mitigation; fire suppression or other types of abatement costs; third party claims and judgments; and all administrative, interest, and other legal costs.
- D. The United States has no duty, either before or during the lease term, to inspect the property or warn of hazards. In the event the United States inspects the property, it will incur no additional duty nor any liability for hazards not identified or discovered through such inspections.
- E. The Lessee has an affirmative duty to protect the land, property, and interests of the United States from damage.
- F. The Lessee shall be liable for damage or injury to the United States in accordance with 43 CFR 2807.12. The Lessee shall be held to a standard of strict liability for damage or injury to the United States resulting from fire or soil movement (including landslides and slumps as well as wind and water-caused movement of particles) caused or substantially aggravated by any of the following within the lease area:
 - 1. Activities of the Lessee, including but not limited to construction, operation, maintenance, and termination of the facility.
 - 2. Activities of other parties including but not limited to:
 - a) Land clearing and logging.
 - b) Earth disturbing and earth moving work.
 - c) Blasting.
 - d) Vandalism and sabotage.

The maximum limitation for such strict liability damages shall not exceed the given calendar year amount in accordance with current regulations for any one event, and any liability in excess of such amount shall be determined by the ordinary rules of negligence of the jurisdiction in which the damage or injury occurred. This section shall not impose strict liability for damage or injury resulting primarily from the negligent acts or omissions of the United States.

- G. A Performance and Reclamation bond shall be required and must be provided prior to issuance of a Notice to Proceed with ground disturbing activities. The BLM will adjust the bond amount as appropriate according to law, regulation, and policy. "Performance and reclamation bond" means an instrument provided by the Lessee that provides the appropriate financial guarantees, including cash, to cover potential liabilities or specific requirements identified by the BLM for the construction, operation, decommissioning, and reclamation of an authorized lease on public lands.
 - 1. Acceptable bond instruments. The BLM will accept cash, cashier's or certified check, certificate or book-entry deposits, negotiable U.S. Treasury securities, and surety bonds from the approved list of sureties (U.S. Treasury Circular 570), payable to the BLM. Irrevocable letters of credit payable to the BLM and issued by banks or financial institutions organized or authorized to transact business in the United States are also acceptable bond instruments. An insurance policy can also qualify as an acceptable bond instrument, provided that the BLM is a named beneficiary of the policy, and the BLM determines that the insurance policy will guarantee performance of financial obligations and was issued by an insurance carrier that has the authority to issue policies in the applicable jurisdiction and whose insurance operations are organized or authorized to transact business in the United States.
 - 2. Unacceptable bond instruments. The BLM will not accept a corporate guarantee as an acceptable form of bond instrument.
- H. In the event of any breach of the lease by the Lessee, the Authorized Officer may, on reasonable notice, cure the breach at the expense of the Lessee. If the BLM at any time pays any sum of money or does any act which requires payment of money, or incurs any expense, including reasonable attorney's fees, in instituting, prosecuting, and/or defending any action or proceeding to enforce the United States' rights hereunder, the sum or sums so paid by the United States, with all interests, costs and damages will, at the election of the BLM, be deemed to be additional expense hereunder and will be due from the Lessee to the BLM on the first day of the month following such election.

V. OTHER PROVISIONS

- A. Nondiscrimination. The Lessee must at all times operate on the property and in its appurtenant areas and its buildings and facilities, whether or not on the property, in full compliance with Title VI of the Civil Rights Act of 1964 and all requirements imposed by or pursuant to the regulations issued thereunder by the Department of the Interior and in effect on the date this lease is granted, to the end that no person in the United States will, on the grounds of race, sex, color, religion, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any of the programs or activities provided thereon.
- B. Termination and Suspension.
 - 1. Definitions:
 - a. "Termination" refers to an action by the Authorized Officer to end the lease because of noncompliance with any of the prescribed terms, abandonment, or for reasons in the public interest. Termination also occurs when, by the terms of the lease, a fixed or agreed-upon

condition, event, or time occurs. For example, the lease terminates at expiration. Termination ends the Lessee's right to use the property, unless the lease is renewed.

- b. "Suspension" is a temporary action suspending the Lessee's right to use the property, which may be restored upon the occurrence of prescribed actions or conditions.
2. The Authorized Officer may suspend or terminate the lease, in whole or in part, in accordance with 43 CFR 2807.17 through 2807.19 and parts III.B and III.E of the lease.
 3. This lease is issued subject to the Lessee's compliance with all applicable laws and regulations and, in particular, with the regulations contained in 43 CFR 2800, including the terms and conditions required by 43 CFR 2805.12 and 2809.18. Failure of the Lessee to comply with applicable laws or regulations or with any terms, conditions, or stipulations herein shall constitute grounds for suspension or termination of the lease. The Authorized Officer may also suspend or terminate the lease upon nonuse, or when suspension or termination is in the public interest. Nonuse refers to a failure to operate the facilities consistently on the property for any period during the term in excess of 180 days.
 4. Consistent with 43 CFR 2807.19, upon termination or expiration of this lease, the Lessee shall remove all improvements from the property within 180 calendar days, or otherwise dispose of the improvements as provided for in the Plan of Development or Reclamation Plan or as directed by the Authorized Officer.
 5. Upon request by the BLM, the Lessee shall provide, or give access to, any pertinent environmental, technical, and financial records, reports, and other information related to construction, operation, maintenance, and termination of the facilities authorized under this lease. Any information marked confidential or proprietary will be kept confidential to the extent allowed by law. Failure to comply with such request may, at the discretion of the BLM, result in suspension or termination of the lease in accordance with the regulations.
 6. Any discretionary decisions or determinations by the Authorized Officer on termination or suspension are subject to appeal in accordance with the regulations contained in 43 CFR Part 4.
- C. Members of Congress. No member of or Delegate to Congress, or Resident Commissioner, may benefit from this lease directly or indirectly, except when the lease provides a general benefit to a corporation.
- D. Reservations. This lease is granted subject to the following reservations by the United States:
1. The United States reserves the right to all natural resources now or hereafter located on the property, unless stated otherwise herein, and the right to obtain, utilize or dispose of such resources insofar as the rights and possession of the Lessee are not unreasonably affected. Use of common varieties of stone and soil which are necessarily removed during construction of the project, without additional BLM authorization or payment, in constructing the project within the authorized right-of-way consistent with 43 CFR 2805.14(e).
 2. The United States reserves and may exercise any rights not expressly conveyed, including BLM's right to access the lands covered by this lease at any time and enter any facility constructed on the lease.
 3. The United States reserves the right to use or to authorize the use of the property for compatible uses, including the subsurface and air space.

In the event of any conflict between any of the preceding printed clauses or any provisions thereof and any of the following clauses or any provision thereof, the preceding printed clauses control.

IN WITNESS WHEREOF, The undersigned agree and have read, understand, and accept the terms and conditions of this lease.

LESSEE

Signature of Lessee Title of Lessee

Printed Name of Lessee Date

IN WITNESS WHEREOF, the Bureau of Land Management, by its Authorized Officer, has executed this lease on the day and year of their signature below.

UNITED STATES of AMERICA

Signature of Authorized Officer Title of Authorized Officer

Printed Name of Authorized Officer Date
(Effective Date of Lease)