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Klamath County, Oregon



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**GRANT OF EASEMENT AND EASEMENT AGREEMENT FOR
TRANSMISSION FACILITIES**

GRANTOR: David M. Cowan and Theresa E. Cowan
7647 Libby Road NE
Olympia, WA 98506

GRANTEE: Bly Solar Center, LLC
c/o GCL New Energy, Inc.
Attention: Legal Department
12667 Alcosta Blvd., Suite 400
San Ramon, CA 94583

**RECORDING REQUESTED BY
AND WHEN RECORDED RETURN TO:**

Bly Solar Center, LLC
c/o GCL New Energy, Inc.
Attention: Legal Department
12667 Alcosta Blvd., Suite 400
San Ramon, CA 94583

Prepared by: Jason N. Barglow

A handwritten signature in black ink, appearing to read 'DME/tee'.

GRANT OF EASEMENT AND EASEMENT AGREEMENT FOR TRANSMISSION FACILITIES

THIS GRANT OF EASEMENT AND EASEMENT AGREEMENT FOR TRANSMISSION FACILITIES (this "Agreement") is made as of the last date executed by a party hereto (the "Effective Date") between **David M. Cowan and Theresa E. Cowan** ("Grantor"), and **Bly Solar Center, LLC** ("Grantee"). Grantor is the sole owner of certain property located in Klamath County, Oregon, as more particularly described in Exhibit A attached hereto and made part hereof (the "Property").

1. **Grant of Transmission Easement.** For good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged by Grantor, Grantor hereby grants, conveys and warrants to Grantee and its successors and assigns, an easement ("Transmission Easement") under and across two (2) different ten (10) foot wide portions of the Property (as further described below, such portions of the Property the "Easement Area") for the right to erect, construct, reconstruct, replace, remove, maintain, operate and use from time to time below-ground Transmission Facilities consisting of AC and DC electrical and/or communication lines, wires and cables for the transmission of electrical energy and/or for communication purposes, and all necessary and proper below-ground: conduits, foundations, footings, guy wires, anchors, and other below-ground appliances, fixtures and facilities for use in connection with said lines, wires and cables under and across the Easement Area (collectively, the "Transmission Facilities"). The Easement Area shall extend for five (5) feet on each side of the centerline of two (2) as-installed Transmission Facilities generally running East-to-West under and across the Property with centerlines delineated by end-point signage near the East and West Property boundaries. All Transmission Facilities shall be installed in compliance with all applicable building and other codes and in accordance with relevant industry standards.

2. **Staking.** Grantee shall install reasonable "NO DIG" (or equivalent) signage on both East and West fences to mark the centerline locations where the two (2) as-installed Transmission Facilities are located and maintain the location delineation signage for the duration of the Transmission Easement term.

3. **Digging Restriction.** Landlord shall not dig, or authorize others to dig, within the Easement Area, except for the installation of Landlord's utilities in compliance with the procedures set forth in Section 10 below.

4. **Access.** Grantee shall also have the right of ingress to and egress from Transmission Facilities over and along the Property by means of roads and lanes thereon if existing, or otherwise by such reasonable route or routes across the Property. Grantee shall also have the right (upon prior written consent of Grantor) to trim, cut and remove trees and underbrush within the Easement Area, provided that Grantee shall dispose of all resulting debris offsite.

5. **Term and Termination.** The term of this Agreement shall commence on the Effective Date and continue until the expiration or sooner termination of that certain Solar Energy Site Lease Agreement between Grantor and Grantee dated September 30, 2016, as amended by that certain First Amendment thereto dated November 27, 2017. Upon the termination of this Agreement, Grantee shall, at Grantor's request, file a notice of termination in the real property records of the county in which the Property is located (the "County Recorder"), and restore the surface of the Property, as nearly as is commercially practicable, to the same condition it was in prior to the commencement of construction.

6. **Assignment.** Grantee may assign this Agreement or its rights with respect to the Transmission Easement, in whole or in part, with Grantor's written consent which will not be unreasonably withheld, conditioned or delayed. This Agreement shall run with the land. This Agreement shall inure to the benefit of, and be binding upon, Grantor and Grantee and their respective transferees, legal representatives, heirs, successors and assigns and all persons claiming under them.

7. **Costs.** All costs and expenses incident to the erection, construction, reconstruction, replacement, removal, maintenance, operation and use of the Transmission Facilities shall be borne by Grantee.

8. **Grantor's Right to Easement Area.** Grantor retains the right to use the Easement Area for all purposes not inconsistent with the rights granted to Grantee by this Agreement, including without limitation the right to erect, construct, reconstruct, replace, remove, maintain, operate and use from time to time above-ground fencing or utilities.

9. **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, including, but not limited to, all claims for personal injuries and property damage, to the extent caused by the installation or existence of the Transmission Facilities.

10. **Installation of Grantor Utilities.** Grantor shall have the right to install Grantor below-ground utility lines across the Easement Area, subject to and in accordance with the following provisions:

(a) Grantor shall provide Grantee with written notice ("Utility Notice") at least one hundred twenty (120) days in advance of the date that Landlord desires to install the utility lines ("Grantor Utility Lines") (such date, the "Installation Date").



(b) On or prior to the Installation Date, Grantee shall provide reasonable means for Grantor to perform such installation (for example, by the installation by Grantee of conduits perpendicular to the Transmission Facilities allowing Grantor to install the Grantor Utility Lines into such conduits).

(c) All costs and expenses incident to the erection, construction, reconstruction, replacement, removal, maintenance, operation and use of Grantor's Utility Lines shall be borne by Grantor. Notwithstanding the foregoing all costs and expenses incident to the location and exposure of Grantee's Transmission Facilities within the Easement Area as reasonably required for Grantor's utility access shall be borne by Grantee.

(d) In the event that Grantee has not complied with the provisions of Section 10(b) by the date which is thirty (30) days after the Installation Date (such date, the "Penalty Date"), Grantee shall be required to pay Grantor a fee in the amount of One Hundred Dollars (\$100) for each business day that elapses between the Penalty Date and the date that Grantee has complied with its obligations pursuant to Section 10(b) above.

11. Financing. (a) Grantee may collaterally assign, mortgage or otherwise encumber its interest in this Agreement to any institution (including any trustee or agent on behalf of such institution) providing debt or other financing to Grantee or its successors or assigns (each, a "Financing Party") under any mortgage, deed of trust, deed to secure debt or other security instrument by which Grantee's interest under this Agreement is mortgaged, conveyed, assigned or otherwise transferred to secure a debt or other obligation to a Financing Party (each, a "Mortgage"). Each Financing Party who provides notice to Grantor of its Mortgage shall be referred to as "Mortgagee".

(b) So long as any Mortgage remains in effect, this Agreement shall not be modified, and Grantor shall not accept a surrender of the Easement Area or a termination or release of this Agreement, without the prior consent of all Mortgagees.

(c) Grantor, upon providing Grantee any notice of default under, or termination of, this Agreement, shall at the same time provide a copy of such notice to each Mortgagee. Such Mortgagee shall have the same period, after the giving of such notice, for remedying any default or causing the same to be remedied (but shall have no obligation to remedy or cause the remedy of any default), as is given Grantee after the giving of such notice to Grantee to remedy the default specified in any such notice. Grantor shall accept such performance by or at the instigation of such Mortgagee as if the same had been done by Grantee.

(d) Grantor shall execute estoppel certificates (certifying as to such matters as Grantee may reasonably request, including, without limitation, that no default then exists under this Agreement to Grantor's knowledge, if such be the case), consents to assignment and/or non-disturbance agreements as Grantee or any Mortgagee may reasonably request from time to time.

(e) If this Agreement is terminated as a result of any default or the bankruptcy, insolvency or appointment of a receiver in bankruptcy for Grantee, Grantor shall give prompt notice to the Mortgagees. Grantor shall, upon written request of the first priority Mortgagee, made within forty (40) days after notice to such Mortgagee, enter into a new easement agreement with such Mortgagee, or its designee, within twenty (20) days after the receipt of such request. Such new easement agreement shall be effective as of the date of the termination of this Agreement by reason of default by Grantee, and shall be for a term equal to the remainder of the term of this Agreement and upon the same terms, covenants, conditions and agreements as contained in this Agreement. Upon the execution of any such new easement agreement, the Mortgagee shall agree in writing to perform or cause to be performed all of the covenants and agreements set forth in this Agreement to be performed by Grantee to the extent that Grantee failed to perform the same prior to the execution and delivery of the new easement agreement.



12. Notices. All notices, requests and communications ("Notice") under this Agreement shall be given in writing by first class certified mail, postage prepaid, return receipt requested, or by reputable overnight courier, to the individuals and addresses indicated below:

(a) If to Grantor:

David M. Cowan and Theresa E. Cowan
7647 Libby Road NE
Olympia, WA 98506

(b) If to Grantee:

c/o GCL New Energy, Inc.
Attention: Legal Department
12667 Alcosta Blvd., Suite 400
San Ramon, CA 94583

(c) If to Mortgagee on notice of default or termination: (Address indicated in Mortgagee's notice sent to Grantor under Section 11 hereof).

Any Notice provided for herein shall be deemed to be received five (5) business days after the date on which it is mailed. Any party may, by proper written notice hereunder to the other party, change the individual address to which such Notice shall thereafter be sent.

13. Gate. The parties acknowledge and agree that Grantor shall lock the gate located near the center of the North boundary of the Property (the subject gate preexisting as of the Effective Date and being the only gate oriented with an east-west alignment when closed).

14. Miscellaneous. This Agreement may not be amended or modified except by a written agreement signed by the parties hereto. 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. Grantor and Grantee agree that this Agreement shall be recorded in the County Records. If any terms or provisions of this Agreement are deemed to be invalid or unenforceable, the remainder of this Agreement shall not be affected thereby. 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.

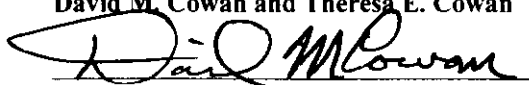
15. Dispute Resolution. Any controversy or claim between the parties arising out of or relating to this Agreement, or the breach, termination or invalidity hereof, shall be settled by a single arbitrator conducting final and binding arbitration in Klamath County, Oregon (or such other location agreed to by Grantor and Grantee) under the rules of the American Arbitration Association ("AAA") in effect on the Effective Date. If the parties shall fail to select a mutually acceptable arbitrator within ten (10) days after a written demand for arbitration is made, then the parties stipulate to arbitration before a single arbitrator selected according to the AAA. The interpretation and construction of this Agreement shall be governed by the internal laws of the State of Oregon without respect to its conflict of laws principles. Judgment upon any award issued by an arbitrator hereunder may be entered in any court having jurisdiction thereof. Upon a showing of potential for substantial and irreparable injury, the arbitrator or an appropriate court (at the aggrieved party's election) shall have power to order protective or conservation measures to be taken to preserve the respective rights of either party. The prevailing party shall be entitled to reimbursement by the other party of such party's attorneys' fees and costs and expense of arbitration.




IN WITNESS WHEREOF, 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.

GRANTOR:

David M. Cowan and Theresa E. Cowan


David M. Cowan

Date: 7/3/19


Theresa E. Cowan

Date: 7-3-19

GRANTEE:

Bly Solar Center, LLC

By: _____

Date: _____

Its: _____

Print Name: _____

State of Washington} ss
County of Thurston}

On this 3rd day of July, 2019, before me, Alyssa Kelly, a Notary Public in and for said state, personally appeared David M. Cowan, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed 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.

Alyssa Kelly
Notary Public for the State of Washington
Residing at: Lacey, WA
Commission Expires: June 15th, 2021



State of Washington} ss
County of Thurston}

On this 3rd day of July^{AK}, 2019, before me, Alyssa Kelly, a Notary Public in and for said state, personally appeared Theresa E Cowan, known or identified to me to be the person(s) whose name(s) is/are subscribed to the within Instrument and acknowledged to me that he/she/they executed 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.

Alyssa Kelly
Notary Public for the State of Washington
Residing at: Lacey, WA
Commission Expires: June 15th, 2021




IN WITNESS WHEREOF, 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.

GRANTOR:

David M. Cowan and Theresa E. Cowan


David M. Cowan

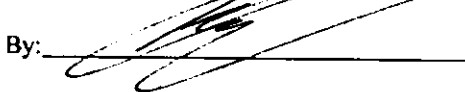
Date: 7/3/19


Theresa E. Cowan

Date: 7-3-19

GRANTEE:

Bly Solar Center, LLC

By: 

Date: 07/08/19

Its: _____

Print Name: Frank Zhu

PLEASE, SEE
THE ATTACHED
FROM NOTARY PUBLIC



ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of CONTRA COSTA

On 8th July 2019 before me, Anca Heinze Notary Public
(insert name and title of the officer)

personally appeared FRANK ZHU
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

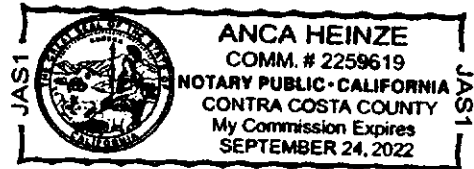
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Anca Heinze

(Seal)



GRANT EASEMENT AND EASEMENT
AGREEMENT FOR TRANSMISSION FACILITIES

[Signature]

EXHIBIT "A"

A fifty (50) foot by fifty (50) foot track of land situated outside of the leased Site boundaries defined in the certain Solar Energy Site Lease Agreement by and between Grantor and Grantee dated September 30, 2016, as amended by that certain First Amendment thereto dated November 27, 2017, and more particularly described as follows:

Land situated in the Northeast 1/4 of Section 11 Township 37 South, Range 14 East, Willamette Meridian, Klamath County, Oregon, specifically described as follows:

From the Northeast corner of said Section 11, South 00°43'05" West 2665.50 feet to the East 1/4 corner of said Section 11;

Thence along the South line of the Northeast 1/4 of said Section 11, North 89°37'59" West 1050.02 feet;

Thence North 00°43'05" East 697.47 feet to the POINT OF BEGINNING;

Thence North 89°16'55" West 50.00 feet;

Thence South 00°43'05" West 50.00 feet;

Thence South 89°16'55" East 50.00 feet;

Thence North 00°43'05" East 50.00 feet to the POINT OF BEGINNING;

Contains 2500 square feet or 0.057 acres, more or less.

Bearings are based upon County Survey 8153, Klamath County Survey Records.