

## ROAD USE AND MAINTENANCE AGREEMENT

THIS ROAD USE AND MAINTENANCE AGREEMENT ("Agreement") is entered into as of this 23<sup>rd</sup> day of April 2024 ("Effective Date") by and between Henry County, Missouri (the "County"), a governmental entity in the State of Missouri, whose address for purposes of this Agreement is 100 West Franklin Clinton, MO 64735, and Beavertail Solar, LLC, a Delaware limited liability company, whose address for purposes of this Agreement is 226 N. Morgan Street, Suite 200, Chicago, IL 60607 ("**Operator**").

### RECITALS

WHEREAS, Operator is developing a commercial solar electrical generation facility ("**Project**") on a site located in the County, with an expected total nameplate capacity of approximately 400 megawatts ("**MW**") with the final nameplate capacity of the Project subject to change in Operator's discretion; and

WHEREAS, Operator intends to obtain the necessary approvals to build, operate and maintain the Project; and

WHEREAS, in connection with the construction, operation and maintenance of the Project, the Parties desire to address certain issues relating to the roads owned, operated and maintained by the County (collectively, the "**Roads**") over which it will be necessary for Operator and Operator's agents, employees, contractors, subcontractors, affiliates, and servants (each, an "**Operator Agent**") to, among other things: (i) transport heavy equipment and materials which may be in excess of local design limits of certain Roads, (ii) transport locally sourced materials, such as concrete and gravel, on the Roads; (iii) make specific modifications and improvements (both temporary and permanent) to the Roads (including various associated culverts, bridges, road shoulders and other fixtures) to permit such equipment and materials to pass; and (iv) place overhead and underground electrical and communication cables (collectively "**Cables**") for the Project adjacent to, along, under or across such Roads; and

WHEREAS, it is in the best interest of the public health, safety and welfare that Operator and the County reach an agreement to address possible issues pertaining to the Roads that will arise in, around, and near the Project;

WHEREAS, Operator and the County wish to set forth their understanding and agreement relating to the use of Roads during the construction and operation of the Project; and

NOW, THEREFORE, in consideration of the mutual terms and conditions set forth in this Agreement, and for other good and valuable consideration, receipt of which is hereby acknowledged, the Parties agree as follows:

### TERMS AND CONDITIONS

1. Operator will undertake the following activities in accordance with the terms of this Agreement:

a. Designate a company representative with authority to represent Operator. As of the date of the Agreement, the company representative is Oliver Chag, (603) 812-5535.

b. At least sixty (60) days prior to beginning construction of the Project, provide the County with a preliminary site plan identifying panel locations, site access points, and road crossings, to be attached as **Exhibit A**, along with the preliminary transportation route for the Project equipment attached as **Exhibit B**, subject to amendment and in compliance with County Road Standards set out as **Exhibit C** attached as part of this Agreement;

c. Provide plans to the County for the widening of any corner radius necessary to facilitate the turning movements of the transport trucks used by Operator during construction of the Project; make any necessary improvements; and at the conclusion of construction, either retain or remove any such improvements as the County directs and, if removed, restore the affected property to its original condition;

d. Erect permanent markers indicating the presence of the Cables and install tape in any trench in which Operator has placed or will place Cables in a County right-of-way. All Cables shall be buried at a minimum depth of forty-eight (48) inches below the road surface;

e. Notify the County Highway Superintendent in advance of all oversize transportation and crane crossings over, across or along any Road;

f. Transport or cause to be transported the panel segments and other oversize loads in a reasonable effort to minimize adverse impact on the local traffic;

g. Provide reasonable advance notice to the County when it is necessary for a Road to be closed due to a crane crossing or for any other reason relating to the construction of the Project. Notwithstanding the foregoing, Operator will provide no less than twenty-four (24) hours' notice when reasonably practicable and will provide all materials necessary to close the Road;

h. Provide signage of all road closures and work zones in compliance with the Manual on Uniform Traffic Control Devices and as may be required by the County;

i. Purchase and deliver applicable road materials for repairs to Roads that are damaged by Operator and/or an Operator Agent during the hauling of materials and/or construction of the Project and bear the reasonable costs to restore any Roads that are damaged by Operator and/or an Operator Agent during the hauling of materials and/or construction of the Project to the condition enjoyed immediately prior to such damage occurring, to the extent reasonably possible;

j. Cables must cross a road, in which case, these Cables will be bored under the road, buried at a minimum depth of forty-eight (48) inches below the road and ditch surface and the crossing shall be restored promptly to its pre-construction condition; and

2. The County, in accordance with the terms of this Agreement, agrees that it shall:

a. Designate a County representative with authority to represent the County. As of the date of the Agreement, the County representative is Dennis Bowers, Road and Bridge Supervisor (660) 492-6552;

b. Timely perform routine and regular maintenance of the Roads including: grading, snow removal, striping, routine signage, and regularly scheduled maintenance and repair. During the construction of the Project, Operator shall perform daily maintenance of the Roads, as necessary.

c. Timely review and approve all Project-related access points and road crossings, which are submitted by Operator in **Exhibit A**;

d. Timely review and approve plans for all Project-related utility encroachments on County rights-of way; which are submitted by Operator in accordance with **Exhibit A**;

e. Authorize the designated County representative to agree on behalf of County to revisions to **Exhibit A** and the final location of Road crossings, access points, and utility encroachments as revisions are submitted to the County by or on behalf of Operator; and

f. Hereby grant to Operator and its Agents a non-exclusive right to enter upon and utilize the surface of the County roads and rights of way, including the Roads, for the purposes specified in this Agreement. In addition to the surface use of the Roads, the County hereby grants to the Operator and its Agents a non-exclusive license, interest, right and privilege to utilize any County rights-of-way for the maintenance, repair, or decommissioning of the Project and the for the siting, installation, repair, maintenance, or repowering of facilities that benefit the Project including, but not limited to, Cables, collection lines, electrical or data transmission lines or other facilities or utilities as may be beneficial for the operation of the Project. The Operator shall make an annual payment to the County in the amount of \$30,000 per year payable in December of each year.

g. The Operator shall provide a performance bond in the amount of \$500,000.00 prior to commencing work.

### 3. Planning Inventory

#### a. Road Inventory

1. Pre-Construction Inventory. No later than thirty (30) days before the commencement of construction on the Project, Operator shall perform a survey to record the condition of the pavement surface of the Roads which will be used in the transport of equipment to the Project. During this survey, the entire length of the roads shall be videotaped and if deemed necessary by the Operator, photographs may also be taken. In addition, the County will provide Operator, if available, with copies of any plans, cross-sections and specifications relevant to the existing Roads structure. Operator shall provide County with copies of all pre-construction documentation. All costs associated with the Pre-Construction Inventory shall be borne solely by Operator.

## 2. Post-Construction Inventory

i. Upon completion of construction of each phase of the Project, representatives of the County and Operator will perform a post-construction inventory, the methods of which shall be similar to those of the Pre-Construction Inventory described above. The two sets of pre and post-construction data will be compared and if there is any wheel lane rutting, cracking or other damage in excess of the original survey, the County and Operator will determine the extent of the repairs or improvements needed to return the roads to a pre-construction condition. All costs associated with the Post-Construction Inventory shall be borne solely by Operator.

ii. Operator shall be obligated to, make any or all repairs necessary to return the roads to a pre-construction condition, at its sole cost and expense. Within five (5) calendar days following the completion of the Post-Construction Inventory, Operator shall provide notice to the County identifying those repairs which Operator agrees to undertake and the expected date by which such repairs shall be completed.

b. Routing and Access Approval. As soon as practical after execution of this Agreement and as necessary throughout the construction of the Project, Operator and County shall meet to discuss routing for the transportation of equipment to the Project, Project-related access points, road crossings and Cable locations and the County shall review and approve the same in accordance with Sections 2.

## 5. Mutual Indemnification/Hold Harmless and Liability Insurance Provisions.

a. Required Insurance. Operator shall upon commencement of construction of the Project and for the period of construction of the Project, maintain in full force and effect commercial general liability insurance, in the aggregate amount equal to Three Million Dollars (\$3,000,000). Operator may utilize any combination of primary and/or excess insurance to satisfy this requirement and may satisfy this requirement under existing insurance policies for the Project.

## 6. Miscellaneous

a. Due Authorization. Operator hereby represents and warrants that this Agreement has been duly authorized, executed and delivered on behalf of Operator. The County hereby represents, and warrants that this Agreement has been duly authorized, executed and delivered on behalf of the County.

b. Severability. If any provision of this Agreement proves to be illegal, invalid, or unenforceable, the remainder of this Agreement will not be affected by such finding, and in lieu of each provision of this Agreement that is illegal, invalid, or unenforceable a provision shall be deemed added as may be possible to accurately reflect the intentions of the Parties and so as to make the unenforceable provision legal, valid, and enforceable.

c. Amendments. This Agreement constitutes the entire agreement and understanding of the parties and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. No amendment or modification to this Agreement or waiver of a Party's rights hereunder shall be binding unless it shall be in writing and signed by both Parties to this Agreement.

d. Notices. All notices shall be in writing and sent (including via facsimile and email transmission) to the Parties hereto at their respective addresses, email addresses, or fax numbers (or to such other address, email addresses, or fax number as either such Party shall designate in writing to the other Party at any time).

Operator:

Beavertail Solar LLC  
Attn: Legal Department  
320 N. Sangamon, #1025  
Chicago, IL 60607

and

Mark Brady  
Polsinelli PC,  
7676 Forsyth Blvd., Suite 800  
St. Louis, MO 63105  
(314) 889-7000  
mbrady@polsinelli.com

County:

Henry County, MO  
100 West Franklin Clinton, MO 64735  
Attn: County Clerk  
Phone Number: 660-885-7204  
E-mail Address: rickw@henrycomo.com

e. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, with the same effect as if the signatures thereto and hereto were upon the instrument. Delivery of an executed counterpart of a signature page to this Agreement by electronic mail shall be as effective as delivery of an originally signed counterpart to this Agreement.

f. Governing Law. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Missouri, irrespective of any conflict of laws provisions. Both parties desire that the transactions contemplated hereby be effected and carried out in a

manner that is in compliance with all laws. All litigation shall be maintained in the Henry County Circuit Court.

g. **Successor and Assigns.** This Agreement shall inure to the benefit of and shall be binding upon the Parties hereto, their respective successors, assignees, and legal representatives.

h. **Assignment.** Operator may assign its rights and obligations hereunder, including assigning this Agreement to an affiliate or successor entity, or mortgaging, charging, pledging, collaterally assigning, or otherwise encumbering and granting security interests in all or any part of its interest in this Agreement. If any assignment or other transfer shall be submitted to the County for review and approval, such assignment or other transfer shall not be unreasonably denied.

i. If any Term of this Agreement is found to be void or invalid, such invalidity shall not affect the remaining Terms of this Agreement, which shall continue in full force and effect.

j. **Failure of County or Operator to insist on strict performance of any of the conditions or provisions of this Agreement, or to exercise any of their rights hereunder, shall not waive such rights.**

l. **Whenever in this Agreement the approval or consent of either County or Operator is required or contemplated, unless otherwise specifically stated, such approval or consent shall not be unreasonably withheld or delayed. This Agreement waives all rights of any party to this Agreement to exercise eminent domain actions.**

m. **In any litigation arising from or related to this Agreement, the parties hereto each hereby knowingly, voluntarily and intentionally waive the right each may have to a trial by jury with respect to any litigation based hereon, or arising out of, under or in connection with this Agreement.**

*[remainder of page intentionally left blank]*  
*[signatures begin on following page]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their respective names by their duly authorized officers.

**OPERATOR:**

BEAVERTAIL SOLAR LLC,  
a Delaware limited liability company

By: *Paul Harris*  
Name: Paul Harris

**COUNTY:**

HENRY COUNTY, MISSOURI

By: *Jim Stone*  
Name: *Jim Stone*  
County Commissioner

By: *Rick Fasnold*  
Name: *Rick Fasnold*  
County Commissioner

By: *DALE LAWHER*  
Name: *Dale Lawler*  
County Commissioner

ATTEST:

By: *Rick Watson*, County Clerk



Approved as to Form:

By:

  
Attorney for Henry County



**JIM STONE, Presiding Commissioner**

448 SE 500 Rd.

Clinton, Missouri 64735

Cell: (660) 351-1133

**NORTH DISTRICT**

Rick Fosnow – County Commissioner

776 NE 901 RD

Calhoun, Missouri 65323

Cell: (660) 525-6395

**SOUTH DISTRICT**

Dale Lawler – County Commissioner

697 SE 100 RD

Clinton, Missouri 64735

Cell: (660) 525-4649



## HENRY COUNTY COMMISSION

Phone (660) 885-7200 / 7201 / 7202



100 W. Franklin

Clinton, Missouri 64735-2080

### GUIDELINES FOR NEW ROAD CONSTRUCTION

The physical construction of all new roads in Henry County shall be as follows:

1. The recommended dimensions on all roads shall be:

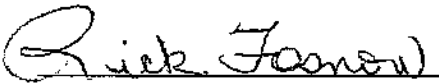
Right-of-way width	50 feet minimum – no obstructions
Roadway surface width	24 feet minimum
Crown	8"-12" center elevation
Turn arounds	100 feet minimum diameter
Culvert pipe	18 inch minimum for crossroads 12 inch minimum for entrances

2. All brush shall be removed from road right-of-way.
3. The ditches shall be cleared of all weeds and grass. Ditches shall provide adequate drainage. Depth and slope shall be approved by the County Commission.
4. Culverts shall be installed at all intersections and drive entrances. Culvert pipe material shall be new concrete or corrugated metal, and shall be sized according to the areas they are draining.
5. The roadway is to be surfaced with a minimal of 4" aggregate base rock, then the surfacing material shall be equal to the same standards as the township then utilizes for existing County road surfacing in the township in which the new road is being constructed.
6. The project will have 500 tons per mile of rock applied.
7. Rock used shall be 1" or 1 ½" state inspected rock.
8. The County Commission may alter these specifications, if the physical terrain or contour of the ground merits such.

These guidelines are in effect as of June 16, 2009.

HENRY COUNTY COMMISSION

  
Jim Stone  
Presiding Commissioner

  
Rick Fosnow  
North District Commissioner

  
Dale Lawler  
South District Commissioner