

ACCESS AND UTILITY EASEMENT

This Access and Utility] Easement (“Easement”) is granted this ____ day of October, 2024, by the **County of Boulder**, a body corporate and politic, whose legal address is P.O. Box 471, Boulder, Colorado 80306 (“Grantor”) to **United Power, Inc.**, a Colorado corporation, whose legal address is 500 Cooperative Way, Brighton, Colorado, 80603 (“Grantee”).

RECITALS

- A. Grantor owns the property known as the Alexander Dawson Open Space property, legally described on Exhibit A, and generally depicted on Exhibit B (“Grantor’s Property”); and
- B. Grantor desires to grant to Grantee a non-exclusive right of access over and across Grantor’s Property to install, operate, maintain, and repair underground utility lines along the route generally depicted on Exhibit B, and legally described on Exhibit C, subject to the conditions contained in this instrument; and
- C. Grantor has complied with the notice requirements for the disposition of open space purchased with Boulder County open space and sales and use tax revenues dedicated to the acquisition and preservation of open space lands in Boulder County.

GRANT OF EASEMENT

NOW THEREFORE, in consideration of the sum of Two Thousand Five Hundred and Fifteen DOLLARS (\$ 2,515.00), the foregoing Recitals, and the mutual covenants contained herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, but subject to the terms and conditions more fully set forth below, Grantor hereby conveys to Grantee, its successors and assigns, the non-exclusive perpetual easement described below:

1. Grant of Easement. Grantor hereby grants and conveys to Grantee a non-exclusive perpetual easement approximately 10 feet wide by 626 feet long across Grantor’s Property to Grantee’s Property for the purposes set forth in Paragraph 2.
2. Purpose. The Easement Property may be used for the installation of an underground electrical line through and across the Easement Property. Grantee shall not use the Easement Property for any other uses without an amendment of this Easement or the express written agreement of Grantor. Similarly, Grantee shall contain all work activities within the Easement Property and shall not use other areas of Grantor’s Property or other property owned by Grantor. Without limiting the foregoing, the terms of this Easement shall apply to the initial construction and to all future maintenance or replacement operations.

3. Construction, Improvements and Maintenance. Within the Easement Property, Grantee may access, construct, install, operate, repair, remove, replace, reconstruct, alter, relocate, inspect, and maintain electrical lines; and use and have reasonable ingress and egress along and across the Easement Property for personnel, equipment, and vehicles. The initial installation of electrical lines shall be by boring beneath the surface of the Easement Property, without disturbance to the surface. To the extent reasonably feasible, all future maintenance and repairs to the electrical lines shall also be completed through the underground conduit in which the electrical lines are placed, and surface disturbance shall be avoided. Grantee shall not pave or otherwise create an impermeable surface over any portion of the Easement Property.

3.1 Grantee shall contain all work activities within the Easement Property and shall not affect any other portion of Grantor's Property. Grantee shall bury any and all utility lines at a sufficient depth at the time of construction so as not to interfere with Grantor's ordinary use of Grantor's Property.

3.2 Grantee must comply with all Boulder County land use regulations, including without limitation, obtaining all necessary approvals and permits for the uses permitted hereunder.

3.3 Grantee shall be responsible for all construction costs and any repairs or maintenance necessary for its construction, maintenance and/or use of the Easement Property. If Grantee is reasonably required to disturb the surface of the Easement Property, Grantee shall restore the Easement Property to its prior condition, including all improvements thereon, including but not limited to, fences, drain tiles, irrigation systems, landscaping, and roads, and shall pay Grantor for damages to Grantor's Property, including but not limited to, damage to growing crops, livestock, and other damages caused by Grantee's activities.

3.4 Grantee may conduct routine maintenance activities within the Easement Property but shall not make improvements or conduct anything other than routine maintenance without having first provided written notice and plans two weeks prior to the initiation of said work to the Director, Parks & Open Space Department, P.O. Box 471, Boulder, Colorado 80306 and receiving written approval from said county department prior to conducting the work, which approval may not be unreasonably withheld.

3.5 Upon completion of the project, Grantee shall remove all equipment, materials, and supplies and shall leave the Open Space in its original or better condition and void of all hazards including but not limited to hazardous changes in topography, such as holes, ruts, and dirt piles.

4. Escrow. Prior to the initial construction and prior to each additional incident of any maintenance or construction activity on the Easement Property, Grantee shall place *Ten Thousand Dollars (\$10,000.00) into escrow with Grantor upon execution of this Easement to

assure Grantee's satisfactory completion of all County-required reclamation, including weed control. Upon Grantee's completion of reclamation, Grantee shall submit to Grantor a written request for return of the escrowed funds. Grantor shall promptly return the escrowed funds to Grantee after receiving Grantee's request, unless Grantor determines, in its sole discretion, that damages to the Work Area or any other portion of Grantor's Property, have not been adequately reclaimed, in which case, Grantor may retain that portion of the escrowed funds necessary to complete the restoration or may afford Grantee the opportunity to attempt to cure the deficiencies in restoration. If Grantor determines that reclamation cannot be fully accomplished with the escrowed funds, Grantor may bill Grantee for all additional costs, and Grantee shall promptly reimburse Grantor for said costs.

5. Relocation. Grantee hereby acknowledges and agrees that if Grantor's management of Grantor's Property creates a need for a relocation of the Easement Property as determined in Grantor's sole discretion, Grantee will cooperate with Grantor to accomplish such relocation at Grantor's expense. In the event of relocation, Grantor and Grantee shall execute such documents as are necessary to vacate the location of the access easement as set forth in this Easement and to establish and record the Easement Property's new location.

6. Indemnity. Grantee must hold harmless and indemnify the County and its employees, agents, contractors, and elected and appointed officials for any and all liability, liens, or other costs and/or losses arising from Grantee's use of the Easement Property; provided that the foregoing indemnity will not apply to extent caused by acts or omissions of Grantor, its agents, employees, contractors or invitees. This indemnity includes all costs, attorney fees, expenses and liabilities incurred in connection with any such potential claims, the investigation thereof or the defense of any action or proceedings brought thereon, and any judgments, orders, decrees, or liens, resulting therefrom, but not to the extent caused by acts or omissions of Grantor, its agents, employees, contractors or invitees. By requiring this right to indemnification, County in no way waives or intends to waive the limitations on liability which are provided to it under the Colorado Governmental Immunity Act, C.R.S., §§24-10-101, et seq., as currently enacted or subsequently amended.

7. Mechanic's Lien. Nothing contained herein shall authorize Grantee, or any person or entity acting through, with or on behalf of Grantee, to subject the Easement Property or any portion of the Easement Property or of Grantor's Property, to mechanic's liens. If any such lien shall be filed against the Easement and Grantee has caused such lien, Grantee shall cause the lien to be discharged. In the event that such lien is not discharged within twenty (20) days after receipt of written notice of the lien by the Grantee, then Grantor, at its option, and at the cost and expense of the Grantee, may enter into, defend, prosecute or pursue any effort or action (whether or not litigation is involved) which Grantor deems necessary to defend Grantor's Property from and against such lien.

8. Enforcement and Restoration. Grantor may exercise immediate reasonable enforcement, restoration and conservation actions when such actions are warranted for the

protection and preservation of Grantor's Property. Should an activity be undertaken on the Easement Property to which the parties have not agreed, Grantor may require Grantee to immediately cease and desist from such activity. In such case, if the unauthorized activity was performed by Grantee, its employees, agents, guests or invitees, the cost of any restoration of Grantor's Property shall be borne by Grantee.

9. Grantor's Reserved Rights. Grantor reserves the right to use and occupy the Easement Property for any lawful purpose consistent with the rights and privileges granted herein which will not interfere with or endanger Grantee's use of the Easement Property. Grantee's use of the Easement Property shall be non-exclusive, and Grantee shall have no rights to use any portion of Grantor's Property except the Easement Property and only as permitted in this Easement.

10. Specific Performance. This Easement may be enforced by specific performance, including mandatory injunctive relief and/or damages.

11. Covenant Running with the Land. This Easement shall run with the land and be binding upon and shall inure to the benefit and/or burden of Grantor and Grantee and their respective successors and assigns.

12. Notices. Within sixty (60) days after a change of a party's address, that party shall provide a written notice of any change of address to all other parties. Whenever notice is required to be given hereunder, it shall be in writing and may be mailed, or hand delivered to the party entitled thereto, and if mailed, it shall be done by registered or certified mail, return receipt requested. If mailed, said notice shall be effective and complete as of the date of mailing. If hand delivered, said notice shall be effective and complete upon completion of the hand delivery. Notice may also be accomplished by email, if emailed to a current email address specified in writing by the receiving party. Until changed by notice in writing, each party's mailing addresses are as follows:

To the Grantee: United Power, Inc.
 PO Box 929
 Brighton, CO 80601
 Facsimile number: 303-659-2172

To the Grantor: The Director
 Boulder County Parks & Open Space
 5201 St. Vrain Road
 Longmont, CO 80503
 Facsimile number: 303-678-6179

With copy to: The Boulder County Attorney's Office
 P.O. Box 471

Boulder, CO 80306
Facsimile number: 303-441-4794

13. Severability. If any provisions of this Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Easement and the application of such provisions to persons or circumstances other than those as to which it is found to be invalid, shall not be affected thereby.

14. Entire Agreement. This instrument and the attached Exhibits contain the entire agreement between the parties relating to the Easement and may be modified only by an instrument in writing executed by both parties.

15. Exhibits. All references to exhibits herein shall incorporate such exhibits by their reference.

16. Counterparts. This Easement may be executed in one or more counterparts, each of which when so executed shall be deemed an original, and such counter parts together shall constitute one and the same instrument.

17. Recording. This Easement shall be recorded in the office of the Clerk and Recorder of Boulder County, Colorado.

18. No Waiver. The waiver by any party to this Easement of any term or condition of this Easement shall not operate or be construed as a waiver of any subsequent breach by any party.

19. Encumbrances. Grantee acknowledges this Easement is subject to all prior recorded encumbrances of Grantor's property.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties have executed this Easement as of the date set forth above.

GRANTOR:

COUNTY OF BOULDER,
a body corporate and politic

By: _____

Printed Name:

Title:
of the Board of County Commissioners

State of Colorado
County of Boulder

The foregoing instrument was acknowledged before me this ___ day of _____, 2024
by _____, of the Board of County Commissioners of
Boulder County, Colorado.

(Notary official signature)

NOTARY
SEAL

(Commission expiration)

GRANTEE:

United Power, Inc., a Colorado corporation

By: *Mark A. Gabriel*

Printed Name: *Mark A. Gabriel*

Title: *President and CEO*

State of Colorado
County of

The foregoing Easement was acknowledged before me this 2 day of October,
2024 by Mark A Gabriel.

Zayda L. Vargas
(Notary official signature)

1/11/2026
(Commission expiration)

Zayda L Vargas
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20224001205
MY COMMISSION EXPIRES 01/11/2026

EXHIBIT A

Legal Description of Grantor's Property

BOULDER COUNTY OPEN SPACE (NORTH PARCEL)

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE SIXTH PRINCIPAL MERIDIAN, BOULDER COUNTY, COLORADO, SAID PARCEL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 10, FROM WHENCE THE WEST QUARTER CORNER OF SAID SECTION 10 BEARS N89°42'13"W, 1895.15 FEET AND WITH ALL OTHER BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE ALONG SAID NORTH LINE S89°42'13"E, 636.58 FEET TO THE WEST RIGHT-OF-WAY LINE OF COLORADO STATE HIGHWAY 287; THENCE ALONG SAID WEST RIGHT-OF-WAY THE FOLLOWING SEVEN COURSES AND DISTANCES;

123.20 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID ARC HAVING A CENTRAL ANGLE OF 00°18'24", A RADIUS OF 23018.31 FEET, AND WHOSE CHORD BEARS S00°14'15"W, 123.20 FEET; S14°00'49"E, 103.26 FEET; S00°04'16"E, 74.54 FEET; S00°22'00"E, 63.75 FEET; 475.16 FEET ALONG THE ARC OF A CURVE TO THE LEFT, SAID ARC HAVING A CENTRAL ANGLE OF 02°21'37", A RADIUS OF 11534.16 FEET, AND WHOSE CHORD BEARS S01°42'18"E, 475.13 FEET; S02°53'07"E, 427.67 FEET; 37.85 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID ARC HAVING A CENTRAL ANGLE OF 00°11'26", A RADIUS OF 11384.16 FEET, AND WHOSE CHORD BEARS S02°47'21"E, 37.85 FEET;

THENCE LEAVING SAID WEST RIGHT-OF-WAY LINE, N89°38'00"W, 322.27 FEET; THENCE S00°22'00"W, 16.00 FEET; THENCE N89°38'00"W, 512.28 FEET; THENCE N17°19'37"W, 401.03 FEET; THENCE N52°06'46"E, 175.26 FEET; THENCE N38°38'51"E, 185.93 FEET; THENCE N69°52'14"E, 183.70 FEET; THENCE N22°05'24"E, 154.02 FEET; THENCE N00°19'31"E, 342.55 FEET; THENCE S89°59'43"W, 231.78 FEET; THENCE N00°00'17"W, 131.35 FEET TO THE **POINT OF BEGINNING**.

EXHIBIT B

Map of Grantor's Property and Easement Area



EXHIBIT C

Legal Description and Survey of Access Easement

DESCRIPTION

A PORTION OF A PARCEL OF LAND BEING THAT PARCEL OF LAND AS DESCRIBED IN A SPECIAL WARRANTY DEED TO THE COUNTY OF BOULDER, FILED FOR RECORD IN THE OFFICE OF THE BOULDER COUNTY CLERK AND RECORDER AT RECEPTION NO. 1801695. SAID PARCEL OF LAND IS LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 10, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

EASEMENT CENTERLINE

A 10.00 FOOT WIDE STRIP, BEING 5.00 FEET, AS MEASURED PERPENDICULAR, LEFT AND RIGHT OF THE FOLLOWING DESCRIBED CENTERLINE;

COMMENCING AT A 1 FOOT WITNESS CORNER TO THE WEST ONE-QUARTER CORNER OF SAID SECTION 10, AS MONUMENTED BY A FOUND 3.25 INCH ALUMINUM CAP MARKED "1' WITNESS PLS 16406 2015"; THENCE SOUTH 89°32'18" EAST, A DISTANCE OF 1893.73 FEET, MORE OR LESS, TO THE **POINT OF BEGINNING**;

THENCE SOUTH 89°41'23" EAST, OVER AND ACROSS SAID PARCEL OF LAND, BEING PARALLEL WITH AND FIVE (5) FEET SOUTH OF THE NORTH LINE OF SAID PARCEL, A DISTANCE OF 626.42 FEET, MORE OR LESS, TO A POINT ON THE WEST LINE OF A 10 FEET WIDE UTILITY EASEMENT AND THE **POINT OF TERMINUS**, FROM WHICH A 30 FOOT WITNESS CORNER TO THE CENTER ONE-QUARTER CORNER OF SAID SECTION 10, AS MONUMENTED BY A FOUND 2.5 INCH ALUMINUM CAP MARKED "30' WITNESS PLS 20673 1991" BEARS NORTH 88°37'21" EAST A DISTANCE OF 169.76 FEET.

THE TOTAL LENGTH OF THE ABOVE-DESCRIBED EASEMENT CENTERLINE IS 626.42 FEET, CONTAINING 0.144 ACRES (6,264 SQUARE FEET) OF LAND, MORE OR LESS.



NOTES:

- SEE THE ATTACHED ILLUSTRATION BY WHICH THIS REFERENCE IS MADE PART HEREOF.
- THIS DESCRIPTION WAS PREPARED WITHOUT THE BENEFIT OF A TITLE COMMITMENT, THEREFORE ACKLAM, INC. HAS NOT RESEARCHED OR SHOWN ANY OTHER EASEMENTS, RIGHTS OF WAY, VARIANCES, AND OR AGREEMENTS OF RECORD EXCEPT AS SHOWN HEREON.
- BEARINGS SHOWN HEREON ARE BASED ON GPS OBSERVATIONS VIA "VRS NOW" POSITIONING SYSTEM AND/OR THE ONLINE POSITIONING USER SERVICE OFFERED BY THE N.G.S. AND PROJECTED TO "COLORADO COORDINATE SYSTEM OF 1983 NORTH ZONE" (C.R.S. 38-52-105 & 106).
- DISTANCES SHOWN HEREON ARE IN US SURVEY FEET GRID. THE COMBINED FACTOR USED TO OBTAIN THE GRID DISTANCES IS 0.99919009.
- THE BASIS OF BEARINGS FOR THIS SURVEY IS THE CENTER EAST-WEST ONE-QUARTER LINE OF THE WEST ONE-HALF OF SECTION 10, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH P.M. SAID LINE BEING MONUMENTED ON THE WEST BY A 1 FOOT WITNESS CORNER TO THE WEST ONE-QUARTER CORNER OF SAID SECTION 10, BEING A FOUND 3.25 INCH ALUMINUM CAP MARKED "PLS 16406 2015" AND ON THE EAST BY A 30 FOOT WITNESS CORNER TO THE CENTER ONE-QUARTER CORNER OF SAID SECTION 10, BEING A FOUND 2.5 INCH ALUMINUM CAP MARKED "30' WITNESS PLS 20673 1991" AND BEARS SOUTH 89°41'23" EAST.

PROJ. NO. 236026
PREPARED BY: CHRISTOPHER A. DEPAULIS, PLS
DATE PREPARED: 04/12/2024
FOR AND ON BEHALF OF ACKLAM, INC.
133 S. 27th AVENUE BRIGHTON, CO 80601
303.659.6267
236026_COUNTY OF BOULDER_DESC_REV_B.docx
PRINTED: 4/12/2024 9:12:00 AM Julianne Hunter

REVISIONS

NO.	DATE	BY	DESCRIPTION
A	03/11/24	JAH	NEW ALIGNMENT CONFIGURATION
B	04/12/24	CAD	NEW ALIGNMENT CONFIGURATION

