



MAYOR AND COUNCIL DINNER - 5:00 P.M.

The Mayor and Council will meet in the Council Work Room for informal discussion and dinner. No action will be taken on any items.

CALL TO ORDER- 5:30 P.M.

COUNCIL BUSINESS

1. Calendar

- Aug 27 - Springville Municipal Primary Election Canvas
- Aug 20 - Work/Study Meeting 5:30 p.m., Regular Meeting 7:00 p.m.
- Sept 02 - Labor Day Observed (City Offices Closed)
- Sept 03 - Work/Study Meeting 5:30 p.m., Regular Meeting 7:00 p.m.
- Sept 07 - City Wide Disaster Drill with CERT
- Sept 10 - Work/Study Meeting 5:30 p.m.
- Sept 11-13 - ULCT Annual Convention

2. DISCUSSION ON THIS EVENING'S REGULAR MEETING AGENDA ITEMS

- a) Invocation - Councilmember Snelson
- b) Pledge of Allegiance - Councilmember Jensen
- c) Consent Agenda
 - 1. Approval of minutes for the July 16, 2019 Regular meeting.
 - 2. Approval of Surplus Property - Jason Riding, Public Works Streets Superintendent

3. DISCUSSIONS/PRESENTATIONS

- a) Presentation from Utah Infrastructure Agency - Roger Timmerman
- b) Presentation regarding refunding 2010 GO Bonds - Bruce Riddle, Assistant City Administrator/Finance Director

4. MAYOR, COUNCIL, AND ADMINISTRATIVE REPORTS

5. CLOSED SESSION, IF NEEDED - TO BE ANNOUNCED IN MOTION

The Springville City Council may temporarily recess the regular meeting and convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, pending or reasonably imminent litigation, and the purchase, exchange, or lease of real property, as provided by UCA 52-4-205.

6. ADJOURNMENT

CERTIFICATE OF POSTING - THIS AGENDA IS SUBJECT TO CHANGE WITH A MINIMUM OF 24-HOURS NOTICE- POSTED 08/15/2019

In compliance with the Americans with Disabilities Act, the City will make reasonable accommodations to ensure accessibility to this meeting. If you need special assistance to participate in this meeting, please contact the City Recorder at (801) 489-2700 at least three business days prior to the meeting.

Meetings of the Springville City Council may be conducted by electronic means pursuant to Utah Code Annotated Section 52-4-207. In such circumstances, contact will be established and maintained by telephone or other electronic means and the meeting will be conducted pursuant to Springville City Municipal Code 2-4-102(4) regarding electronic meetings. s/s - Kim Crane, CMC, City Recorder





REGULAR AGENDA
SPRINGVILLE CITY COUNCIL MEETING
AUGUST 20, 2019 AT 7:00 P.M.
City Council Chambers
110 South Main Street
Springville, Utah 84663

CALL TO ORDER
INVOCATION AND PLEDGE
APPROVAL OF THE MEETING'S AGENDA
MAYOR'S COMMENTS

PUBLIC COMMENT

Audience members may bring any item not on the agenda to the Mayor and Council's attention. Please complete and submit a "Request to Speak" form. Comments will be limited to two or three minutes, at the discretion of the Mayor. State Law prohibits the Council from acting on items that do not appear on the agenda.

CONSENT AGENDA

The Consent Agenda consists of items that are administrative actions where no additional discussion is needed. When approved, the recommendations in the staff reports become the action of the Council. The Agenda provides an opportunity for public comment. If after the public comment the Council removes an item from the consent agenda for discussion, the item will keep its agenda number and will be added to the regular agenda for discussion, unless placed otherwise by the Council.

1. Approval of minutes for the July 16, 2019 Regular meeting.
2. Approval of Surplus Property - Jason Riding, Public Works Streets Superintendent

REGULAR AGENDA

3. Consideration of a Resolution and Red Mesa Solar Agreement - Shawn Black, Power Generation Superintendent
4. Consideration of a Resolution and agreement with the Deaf and Blind School - John Penrod, Assistant City Administrator/City Attorney
5. Consideration of an amending Ordinance #24-2018 regarding a road in the Spring Terrace Subdivision - John Penrod, Assistant City Administrator/City Attorney

MAYOR, COUNCIL AND ADMINISTRATIVE REPORTS

CLOSED SESSION, IF NEEDED - TO BE ANNOUNCED IN MOTION

6. *The Springville City Council may temporarily recess the regular meeting and convene in a closed session to discuss the character, professional competence, or physical or mental health of an individual, pending or reasonably imminent litigation, and the purchase, exchange, or lease of real property, as provided by UCA 52-4-205.*

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MINUTES OF THE REGULAR MEETING OF THE SPRINGVILLE CITY COUNCIL HELD ON
TUESDAY, JULY 16, 2019 AT 7:00 P.M. AT THE CIVIC CENTER, 110 SOUTH MAIN STREET,
SPRINGVILLE, UTAH.

Mayor Richard J. Child presided. In addition to Mayor Child, the following were present:
Councilmember Christopher Creer, Councilmember Craig Jensen, Councilmember Jason Miller,
Councilmember Brett Nelson, Councilmember Michael Snelson, City Administrator Troy Fitzgerald,
Assistant City Administrator/City Attorney John Penrod, Assistant City Administrator/Finance Director
Bruce Riddle and City Recorder Kim Crane.

Also, present were: Public Safety Director Craig Martinez, Building Official Jason Van Ausdal,
Building and Grounds Director Bradley Neel, Recreation Director Corey Merideth, Power Department
Director Leon Fredrickson, Public Works Director Brad Stapley, Library Director Dan Mickelson, and
Museum Director Rita Wright.

CALL TO ORDER

Mayor Child welcomed everyone and called the meeting to order at 7:00 p.m.

CALENDAR

- Jul 24 - Pioneer Day Observed (City Offices Closed)
- Jul 29 - World Folkfest Street Dance, Springville Museum of Art 6:00 p.m.
- Aug 06 - Work/Study Meeting 5:30 p.m., Regular Meeting 7:00 p.m.
- Aug 13 - Work/Study Meeting 5:30 p.m.
- Aug 20 - Work/Study Meeting 5:30 p.m., Regular Meeting 7:00 p.m.

INVOCATION AND PLEDGE

Councilmember Miller offered the invocation, and Councilmember Snelson led the Pledge of
Allegiance.

APPROVAL OF THE MEETING'S AGENDA

COUNCILMEMBER SNELSON MOVED TO APPROVE THE MEETING'S AGENDA AS
WRITTEN. COUNCILMEMBER CREER SECONDED THE MOTION, AND ALL PRESENT VOTED
AYE.

MAYOR'S COMMENTS

Mayor Child welcomed the Council, staff and audience. He asked for any scouts or students on
assignment to please stand and be recognized.

PUBLIC COMMENT

Mayor Child introduced the Public Comment section of the agenda. He asked if there were any
requests.

Kurt Boucher resident; spoke on the transportation systems in the City. He expressed the
benefits of bike paths would be to reduce traffic, pollution and to have shared use paths. They would

increase property values and business, with more foot traffic and bicycle traffic. People are happier with other options of transportation, such as bicycles. The Hobble Creek Parkway could be a safe, continuous path, allow more people to get around without cars. He suggested building a city for those that like to be active. A protected bike lane adjacent to sidewalks, with a protective barrier would not affect private property. The hobble creek parkway would go along the creek; currently there are lanes up the canyon, not so much in town.

Councilmember Snelson recommended Kurtt continue to work with Director Neel and the Building and Grounds Department. Penrod suggested an ad hoc committee would be beneficial, if Mr. Boucher would be willing to participate. Mayor Child agreed.

Fitzgerald gave an update on the Round Peak Fire. Official containment is 5%; with concerns of evening winds. The fire will be staffed with engines and teams camping on the fire line. They have been working very hard and pushing fire away from homes. Overnight they will see how it goes and what work will be involved in the morning. The fire itself has not touched City property at this time, and has been on forest service and state lands.

CONSENT AGENDA

1. Approval of minutes for the May 14, June 11, 2019 and June 18, 2019 Work Study meetings and the June 18, 2019 regular meeting.
2. Approval of a Plat amendment for Stonehenge of Springville Amended #5 located at 829 West 400 South in the NC-Neighborhood Commercial Zone - Laura Thompson, Planner II
- ~~3. Approval of a Community Development Director - John Penrod, Assistant City Administrator/City Attorney~~

COUNCILMEMBER JENSEN MOVED TO APPROVE THE CONSENT AGENDA AS WRITTEN, AND MOVING ITEM #3 TO THE REGULAR AGENDA.

COUNCILMEMBER SNELSON SECONDED AND ALL PRESENT VOTED AYE.

REGULAR AGENDA

4. **Approval of a Community Development Director - John Penrod, Assistant City Administrator/City Attorney**

Penrod introduced the new Community Development candidate Joshua Yost, who is also a resident of Springville, he and his family love the city. Yost attended BYU studying economics and transferred to the University of Utah and graduated in urban planning and continued his master degree with Cornell University. Penrod gave a background of his work history.

Josh addressed the council and expressed his enthusiasm for the position and working and living in Springville

COUNCILMEMBER CREER MOVED TO APPROVE JOSHUA YOST AS THE COMMUNITY DEVELOPMENT DIRECTOR.

COUNCILMEMBER NELSON SECONDED AND ALL PRESENT VOTED AYE.

5. **Discussion/Consideration regarding Art City Days - Corey Merideth, Recreation Director**

Director Merideth gave a follow up review of this year's Art City day's celebration. The Nestle 5k had good participation. The talent festival was rained out and moved to the High School. The rodeo grounds received a lot of rain, and the riding club did a lot of work on drying it out, the rodeo went well and covered costs for this year. The Fun-A-Rama had a good turnout, other than a micro burst wind. The battle of the bands went well. The hot air balloons were not able to fly this year at the Balloon Fest.

92 This was the second year in row they have been unable to fly. The balloon committee is looking at other
ways of handling the balloon fest, either by changing times or other options. The fireman's breakfast
94 was a success. The children's parade and arts festival was a huge success. Saturday the grand parade
and carnival went well and ticket sales were good. Weather was also good for the fireworks.

96 This year the Fireman's Breakfast did not open on Thursday, only Friday and Saturday because
of coverage needs. For 2020 they are looking at some changes and new participants.

98 Staff is reviewing the future for the City float. This year they had some struggles with the
company creating the City float; they were slow and struggled to get the float done in time for the
100 parade. The theme will be structured around the city logo rather than changing it each year. It will help
with being consistent with the float. The committee is looking for suggestions about having community
102 volunteer's help with the float and where to store the float during the year.

Councilmember Nelson commended all involved for providing a great event for the city. He
104 suggested they go through each item and take notes on ways to improve.

Councilmember Miller asked if the rodeo was at capacity. Merideth stated they do need more
106 bleachers.

108 **6. Discussion/Consideration regarding a RAP Tax on the 2019 Municipal General Election Ballot -
Corey Merideth, Recreation Director**

110 Corey provided information regarding a possible RAP Tax. He asked the council for their
approval to place the RAP tax on the 2019 ballot. Riddle explained there was a company that would
112 help the city with providing information and input out to citizens.

Meredith provided a pros and con list for the council to review.

114 Councilmember Snelson asked about getting information out to the citizens without rushing it for
the 2019 ballot.

116 Merideth expressed the top priorities would be to expand Springville's persona as the Art City,
as well as trails, park repurposing, bike trails, and a dog park.

118 Councilmember Miller expressed completing what has already been started, like Community
Park.

120 Administrator Fitzgerald asked the council if they would want to discuss debt being used to
improve Community Park.

122 Merideth will provide information to the Council on August 6, 2019 about approving the RAP tax
being added to the ballot. If council decides to go with the 2020 ballot he gave a timeline starting in
124 January or sooner.

Mayor Child stated due diligence needs to be done and we need to make sure it is done right.

126 Councilmember Nelson, expressed the need for a movement to get the information out, and was
not sure there would be enough time for 2019. He requested staff find out when approval is needed
128 from the county for the 2020 election year.

Fitzgerald explained a RAP tax has been on the ballot in the past; preparedness with debate will
130 need to be done as well as having a plan in place.

Councilmember Creer asked if there were any council members wanting to put it on the 2019
132 ballot.

Councilmember Nelson commented it needs to start now even if it goes to 2020.

134 **MAYOR, COUNCIL REPORTS**

136 Mayor Child asked if there were any comments.

Fitzgerald reported the developer of the Allen's corner would like a second meeting with the
138 community; it has been scheduled for July 22, 2019 at 7:00 p.m.

Stapely reported on the speed limit meeting with the public. Citizen's concerns were if the speed limit is raised people will drive much faster, the lack of enforcement, and they didn't want the roads to get busy. More discussions with the Council will be held at the August 06, 2019 meeting. A considerable amount was concerned about 400 east. He explained 400 East is a collector roadway and designed to handle traffic moving off of Main Street. Information presented to the Council will be adjusted to include what they learned from the public meeting. The question on enforcement was discussed.

7. CLOSED SESSION

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There was none.

ADJOURNMENT

COUNCILMEMBER JENSEN MOVED TO ADJOURN THE CITY COUNCIL MEETING AT 8:16 P.M. COUNCILMEMBER SNELSON SECONDED THE MOTION, AND ALL PRESENT VOTED AYE.

*This document constitutes the official minutes for the Springville City Council Regular meeting held on Tuesday, July 16, 2019.
I, Kim Crane, do hereby certify that I am the duly appointed, qualified, and acting City Recorder for Springville City, of Utah County, State of Utah. I do hereby certify that the foregoing minutes represent a true and accurate, and complete record of this meeting held on Tuesday, July 16, 2019.*

Kim Crane, CMC
City Recorder



STAFF REPORT

DATE: July, 2019
TO: Honorable Mayor and City Council
FROM: Jason Riding, Streets Department Superintendent
SUBJECT: APPROVAL OF SURPLUS VEHICLE

RECOMMENDED MOTION

Motion declaring the Vehicle listed on the attached Surplus Property Form to be surplus property and authorize its surplus sale, according to the Springville City Surplus Property Policy.

SUMMARY OF ISSUES/FOCUS OF ACTION

From time to time as vehicles, equipment and other material property of the city reach the end of their useful lives. The vehicle is removed from service and disposed of according to the Surplus Property Policy. The Surplus Policy requires City Council approval for items with an estimated salvage value over \$5,000.

BACKGROUND

The item in the attached Surplus Property Form, a 2002 Snowplow/Dump truck has been replaced as part of the vehicle replacement process after meeting its useful service life.

DISCUSSION

The Truck had been evaluated by the Central Shop for replacement and recommended by the Vehicle Committee for replacement according to replacement policies and according to city surplus procedures, and as approved in the budget. The vehicle has been removed from service and at this time is ready to be disposed of through a public auction site.

ALTERNATIVES

There are none that meet the replacement and surplus policies.

FISCAL IMPACT



Proceeds from the trade in of the surplus equipment will be credited to the Streets Department's Vehicle and Equipment Reserve Fund

Attachments: Surplus Property Form with vehicle picture



Springville City Surplus Property Form

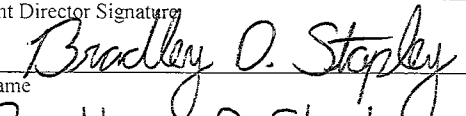
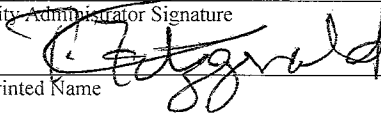
This form is to be used to notify the City Administrator whenever there is a permanent change in the location of City-owned personal property or whenever an item is lost, stolen, or proposed to be placed on the surplus property list for disposal.

DATE: 8/1/2019	Department Streets	Contact Steven Healey Or Ashley Curtis	Phone 491-2762
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Items to be transferred to Surplus Property List

	Qty.	Description	Condition	Tag #	Location	Estimated Value	Proposed Method of Disposal (e.g. auction, scrap, etc.)
1	1	2002 STERLING	POOR	306	WHPP	6,000.00	AUCTION
2							
3							
4							
1							
6							
7							

Authorizations

Department Director Signature 		City Administrator Signature 	
Printed Name Bradley O. Stapley	Date 8/5/19	Printed Name C. Fitzgerald	Date 8/5/19



STAFF REPORT

DATE: August 13, 2019

TO: Honorable Mayor and City Council

FROM: Shawn Black, Generation Superintendent
Leon Fredrickson, Power Department Director

SUBJECT: NTUA-RED MESA TAPAHA SOLAR PROJECT

RECOMMENDED MOTION

Motion to approve a resolution authorizing the Red Mesa Tapaha Solar Project Firm Power Supply Agreement, which has a term of 25 years, starting June 1, 2022, for the purchase of up to 3,000-kW of capacity, of the 66,000-kW total project capacity.

SUMMARY OF ISSUES/FOCUS OF ACTION

The Power Department has reviewed and determined there is a need to bring additional resources into the resource portfolio as the San Juan Project terminates on June 30, 2022. The Red Mesa Tapaha Solar Project will be a renewable project, with environmental attributes, at a very competitive price over the term of the project that could benefit the City Power resource portfolio to maintain low cost wholesale budgets.

BACKGROUND

The Red Mesa Tapaha Solar Resource will be a 66 MW solar photovoltaic generation facility, located on the Navajo Nation reservation, in southeastern Utah (see attachment). The facility is scheduled to become operational in June of 2022.

UAMPS, is entering into a Power Purchase Agreement with the Navajo Tribal Utility Authority Generation-Utah, LLC, a subsidiary of the Navajo Tribal Utility Authority ("NTUA") in behalf of the 15 Members electing to participate in project. UAMPS is utilizing the Master Firm Supply Agreement (see attachment), with a specific transaction schedule for the Red Mesa Tapaha Solar Resource as the agreement with the Cities to purchase power.

The PPA (see attachment) between NTUA Generation and UAMPS, provides delivery of solar energy and environmental attributes for 25 years once the project comes online.

DISCUSSION

The NTUA Generation group has already developed and operates two utility scale solar projects. Both projects have been built within the last three years. NTUA is in the process of developing additional utility scale solar resources on and off the Navajo Nation reservation.

NTUA will use existing transmission lines to deliver the energy from the Red Mesa Tapaha Solar Project to a network substation. This process eliminates additional costs to build transformation and lines usually associated with a new project. All members participating in the project will pay

CITY COUNCIL AGENDA

Meeting Date - August 20, 2019

the standard network transmission cost, which is already in place with PacifiCorp as the network authority.

ALTERNATIVES

There have been many vendors that have presented energy pricing ranging on the high side of ~\$40/MWh and on the low side around ~\$30/MWh. These other options have been plagued with siting a utility scale project in an area which would require significant transmission/substation upgrades, making the end cost and deployment schedule highly suspect due to PacifiCorp interconnection issues.

The City Power Department will continue to review resource vendor proposals thoroughly to maintain resource cost stability.

FISCAL IMPACT

The pricing for this solar resource starts at \$23.15/MWh and escalates 2% per year. The annual budget requirement begins at \$205,550 for the first year, and ends the last year at \$290,841. The amount of energy scheduled to be delivered is ~3% of present-day system energy requirements and 1.2% of budget.

Attachments:

1. Resolution Authorizing the Red Mesa Tapaha Solar Project Transaction Schedule Under the Firm Power Supply Agreement with UAMPS
2. Red Mesa Tapaha Solar Firm Power Supply Agreement Transaction Schedule
3. Project Map-
4. NTUA Kayenta Existing Project site pictures
5. Firm Power Supply Agreement
6. UAMPS-NTUA PPA
7. Member Project Entitlement Schedule

RESOLUTION #2019-xx

A RESOLUTION AUTHORIZING THE RED MESA TAPAHA SOLAR PROJECT TRANSACTION SCHEDULE UNDER THE MASTER FIRM POWER SUPPLY AGREEMENT WITH UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS; AND RELATED MATTERS.

WHEREAS, Springville City, Utah (the "*Member*") owns and operates a utility system for the provision of electric energy to its residents and others (the "*System*") and is a member of Utah Associated Municipal Power Systems ("*UAMPS*") pursuant to the provisions of the Utah Associated Municipal Power Systems Amended and Restated Agreement for Joint and Cooperative Action dated as of March 20, 2009, as amended (the "*Joint Action Agreement*");

WHEREAS, the Member desires to purchase all or a portion of its requirements for electric power and energy from or through UAMPS and has entered into a Power Pooling Agreement with UAMPS to provide for the efficient and economic utilization of its power supply resources;

WHEREAS, the Member has previously entered into the Master Firm Power Supply Agreement with UAMPS in order to allow for UAMPS entering into various firm transactions for the purchase and sale of firm supplies of electric power and energy;

WHEREAS, UAMPS has investigated the Red Mesa Tapaha Solar Project, a sixty-six (66) megawatt (MW) solar photovoltaic generation facility to be located on the Navajo Nation, on behalf of its members and is now prepared to enter into a twenty-five (25) year power purchase agreement with Navajo Generation LLC to secure the delivery of all the energy from the Project and associated environmental attributes; and

WHEREAS, the Member now desires to authorize and approve the Red Mesa Tapaha Transaction Schedule ("Transaction Schedule") attached hereto as Exhibit A for the Project subject to the parameters set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF SPRINGVILLE CITY, UTAH:

Section 1. Authorization of Red Mesa Tapaha Transaction Schedule. The Transaction Schedule, in substantially the form presented at the meeting at which this resolution is adopted, is hereby authorized and approved, and the Member Representative is hereby authorized, empowered and directed to execute and deliver the Transaction Schedule on behalf of the Member. Promptly upon its execution, the Transaction Schedule shall be filed in the official records of the Member.

Section 2. Other Actions with Respect to the Joint Action Agreement. The Mayor, City Recorder, the Member Representative and other officers and employees of the Member shall take all actions necessary or reasonably required to carry out, give effect to, and consummate the transactions

contemplated hereby and shall take all actions necessary to carry out the execution and delivery of the Transaction Schedule and the performance thereof.

Section 3. Miscellaneous; Effective Date. (a) All previous acts and resolutions in conflict with this resolution or any part hereof are hereby repealed to the extent of such conflict.

(b) In case any provision in this resolution shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(c) This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED this 20th day of August 2019.

Richard J. Child
Springville City Mayor

ATTEST AND COUNTERSIGN:

Kim Crane
City Recorder

EXHIBIT A
RED MESA TAPAHA SOLAR TRANSACTION
SCHEDULE

**RED MESA TAPAHA SOLAR
FIRM POWER SUPPLY AGREEMENT
TRANSACTION SCHEDULE**

This Transaction Schedule to the Master Firm Power Supply Agreement to which all Parties to this Transaction Schedule are signatories provide for the following transactions. The Parties to this Transaction Schedule agree to the following provisions and agree to pay all costs of this transaction through the Firm Power Supply Project.

PURCHASER: Springville City

ENTITLEMENT SHARE: 4.5455%

SUPPLIER: NTUA Generation – Utah, LLC (the “Red Mesa Tapaha Solar Project”)

EFFECTIVE DATE: The Power Purchase Agreement by and between UAMPS and NGI Generation-Utah, LLC for the Red Mesa Tapaha Solar Resource (the “PPA”) was executed on July 17, 2019. The PPA becomes effective upon UAMPS obtaining member governing body approvals and completing transmission arrangements with PacifiCorp; UAMPS anticipates satisfying these two conditions by the end of September 2019. The Scheduled Commercial Operation Date (“COD”) is June 1, 2022. The COD may not occur earlier than April 1, 2022 but not later than December 1, 2022.

TERM: A 25-year delivery term commencing on COD. The PPA will become effective upon UAMPS satisfying the two conditions precedent identified above.

AMOUNT: 3,000 kW and associated Environmental Attributes

PRICE: \$23.15/MWH with an annual 2% escalator.

OTHER
PROVISIONS:

Energy: UAMPS will schedule all energy pursuant to the terms and conditions of the PPA and will delivery to the Purchaser its Entitlement Share of the Red Mesa Tapaha Solar Resource. The Red Mesa Tapaha Solar Resource is to be constructed as a 66 MW from solar photovoltaic generation facility located on the Navajo Reservation.

Transmission: UAMPS will charge and the Purchaser will pay transmission charges as adopted by the UAMPS Board of Directors from time to time.

Administration: UAMPS will charge and Purchasers will pay the scheduling fee and reserve fee as adopted by the UAMPS Board of Directors from time to time.

Buyout Options: Under the PPA, UAMPS has the ability to buy the Red Mesa Tapaha Solar Resource from NGI at specified buyout dates pursuant to a fair market value appraisal. If UAMPS is directed to pursue one of its buyout options, then UAMPS will in parallel develop new contracts or amend the Firm Power Supply Agreement with the Purchasers to provide UAMPS with the ability to finance the buyout of the Red Mesa Tapaha Solar Resource.

Other: Any costs incurred by UAMPS due solely to this Transaction Schedule, including but not limited to PPA costs, transmission costs, scheduling costs, administrative costs and legal costs will be the responsibility of Purchasers invoiced through the UAMPS Power Bills.

This Transaction Schedule may be signed in counterpart.

Dated this _____ day of _____, 2019.

SPRINGVILLE CITY

By:_____

Title:_____

UTAH ASSOCIATED MUNICIPAL POWER
SYSTEMS

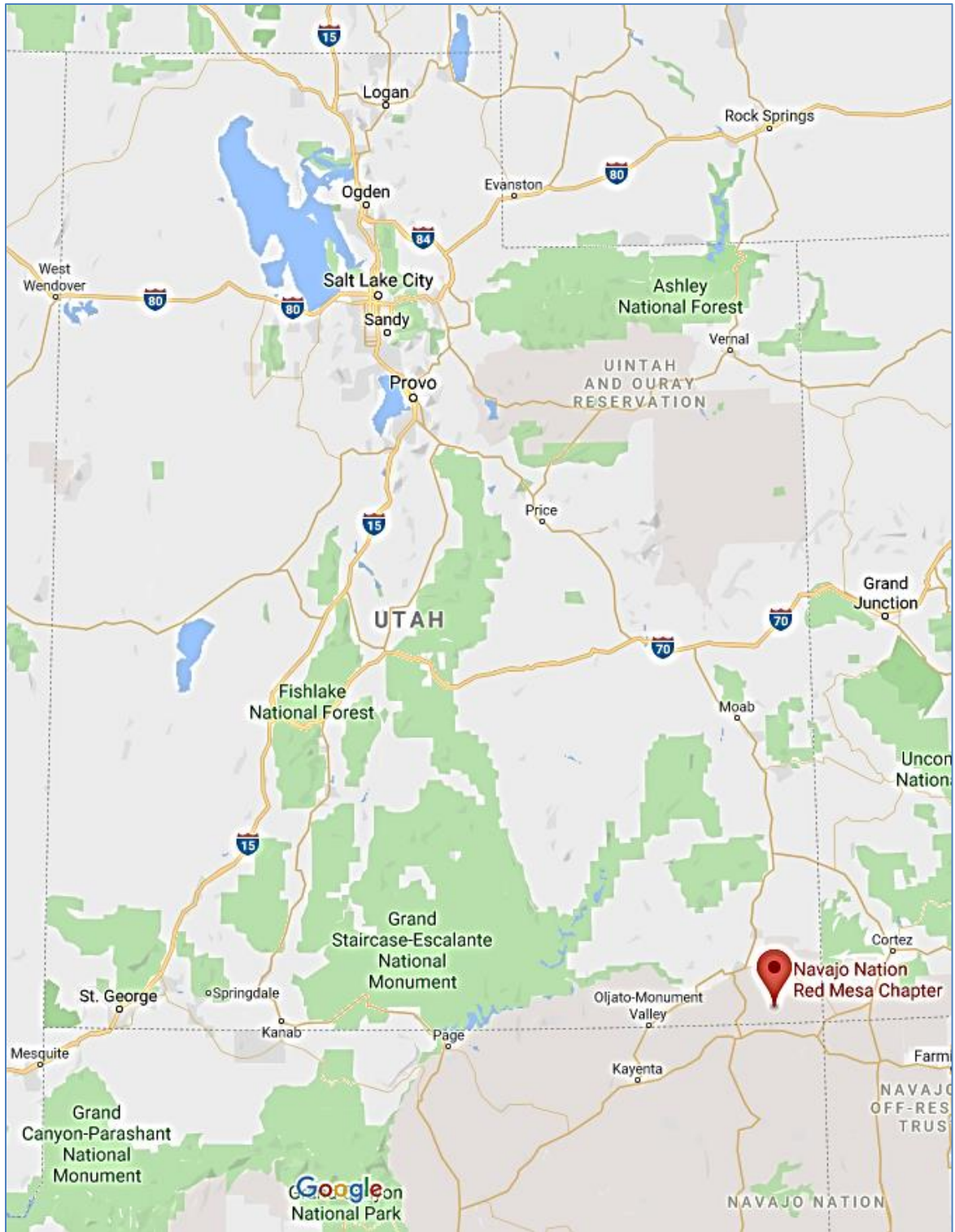
By:_____

Title:_____

RED MESA TAPAHA SOLAR

As of July 12, 2019

MEMBER	ENTITLEMENT	
	kW	%
Beaver	250	0.3788%
Bountiful	5,831	8.8355%
Ephraim	500	0.7576%
Fairview	142	0.2145%
Fallon	1,000	1.5152%
Heber	5,000	7.5758%
Hyrum	300	0.4545%
Lassen MUD	3,000	4.5455%
Lehi	11,663	17.6710%
Logan	5,000	7.5758%
Los Alamos	0	0.0000%
Murray	5,000	7.5758%
Springville	3,000	4.5455%
St. George	18,314	27.7484%
Truckee-Donner	6,000	9.0909%
Washington	1,000	1.5152%
TOTAL	66,000	100.0000%



NTUA Existing Kayenta Solar Project



RESOLUTION NO. 99-24

A RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A POWER
SUPPLY AGREEMENT WITH UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS;
AND RELATED MATTERS.

WHEREAS, the City of Springville, Utah (the "*Member*") owns and operates a utility system for the provision of electric energy to its residents and others (the "*System*") and is a member of Utah Associated Municipal Power Systems ("*UAMPS*") pursuant to the provisions of the Utah Associated Municipal Power Systems Amended and Restated Agreement for Joint and Cooperative Action dated as of February 17, 1999 (the "*Joint Action Agreement*");

WHEREAS, the Member now purchases all or a portion of its requirements for electric power and energy from or through UAMPS and has entered into a Power Pooling Agreement with UAMPS to provide for the efficient and economic utilization of its power supply resources;

WHEREAS, firm transactions may be advantageously utilized by the Member to manage costs of acquiring bulk supplies of electric power and energy to meet the requirements of the consumers served by the System and UAMPS has offered to enter into a Master Firm Power Supply Agreement (the "*Power Supply Agreement*") with the Member pursuant to which UAMPS and the Member may from time to time enter into various firm transactions for the purchase and sale of firm supplies of electric power and energy; and

WHEREAS, the Member now desires to authorize and approve the Power Supply Agreement and to delegate authority to the Member's Representative to UAMPS (the "*Member Representative*") to enter into firm power supply transactions from time to time with UAMPS thereunder, subject to the parameters set forth in this Resolution;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Springville, Utah as follows:

Section 1. Execution, Delivery and Filing of the Power Supply Agreement. The Power Supply Agreement, in substantially the form presented at the meeting at which this resolution is adopted, is hereby authorized and approved, and the Mayor is hereby authorized, empowered and directed to execute and deliver the Power Supply Agreement on behalf of the Member, and the City Recorder is hereby authorized, empowered and directed to attest, countersign and affix the corporate seal of the Member to the Power Supply Agreement, with such changes to the Power Supply Agreement from the form attached hereto as are approved by the Mayor, his execution thereof to constitute conclusive evidence of such approval. Promptly upon its execution, the Power Supply Agreement shall be filed in the official records of the Member.

Section 2. Authorization of Transactions and Transaction Schedules. The Member Representative is hereby authorized to enter into one or more Transactions with UAMPS pursuant to the provisions of the Power Supply Agreement and to execute on behalf of the City one or more Transaction Schedules reflecting such Transactions. This authorization shall extend to all Transactions which, in the aggregate, (i) provide a quantity of electric power energy that does not exceed the Member's anticipated requirements for the period covered by the Transaction or Transactions (such anticipated requirements being as determined by the Member Representative based upon the operating history of the System) and (ii) are reasonably anticipated to require payments by the Member in each year not exceeding the budgeted power supply costs of the System for the fiscal year in which such Transaction or Transactions are entered into by the Member. All other Transactions shall require the prior approval of the City Council.

Section 3. Other Actions with Respect to the Joint Action Agreement. The Mayor, the City Recorder, the Member Representative and other officers and employees of the Member shall take all actions necessary or reasonably required to carry out, give effect to, and consummate the transactions contemplated hereby and shall take all actions necessary to carry out the execution and delivery of the Power Supply Agreement and the performance thereof.

Section 4. Miscellaneous; Effective Date. (a) All previous acts and resolutions in conflict with this resolution or any part hereof are hereby repealed to the extent of such conflict.

(b) In case any provision in this resolution shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

(c) This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED this 20th day of July, 1999.

CITY OF SPRINGVILLE, UTAH

MAYOR

ATTEST AND COUNTERSIGN:

J. Evans
City Recorder

[SEAL].



MASTER FIRM POWER SUPPLY AGREEMENT
BETWEEN
UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS
AND
CITY OF SPRINGVILLE

This Master Firm Power Supply Agreement (this "Agreement"), is made and entered into as of June 16, 1999, between Utah Associated Municipal Power Systems, a political subdivision of the State of Utah ("UAMPS"), and the City of Springville, a municipal corporation of the State of Utah and a member of UAMPS (the "Purchaser"). UAMPS and the Purchaser are referred to collectively herein as the "Parties" and individually as a "Party".

RECITALS:

UAMPS has been organized under the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended (the "Act") and the Utah Associated Municipal Power Systems Agreement for Joint and Cooperative Action, as amended and restated from time to time (the "Joint Action Agreement"), for the certain purposes, including acquiring reliable and economic supplies of electric power and energy for the benefit of the public agencies that are the parties to the Joint Action Agreement (the "Members"); and

UAMPS and the Purchaser desire to enter into this Agreement to set forth the terms and conditions upon which UAMPS will sell and the Purchaser will purchase firm power and energy from certain sources as provided herein.

In consideration of the mutual covenants and agreements set forth herein, the Parties agree as follows:

SECTION 1 – DEFINITIONS AND CONSTRUCTION

1.1 Capitalized terms used in this Agreement shall have the meanings assigned to such terms herein and the following terms shall have the following meanings:

“Board” means the Board of Directors of UAMPS.

“Entitlement Share” means, with respect to each Transaction, the percentage obtained by dividing the electric capacity sold to the Purchaser hereunder (as listed on the applicable Transaction Confirmation) by the total electric capacity purchased by UAMPS under the related Firm Agreement.

“Firm Agreement” means an agreement entered into by UAMPS pursuant to this Agreement for the purchase of firm supplies of electric power and energy.

“Point of Delivery” means the point of delivery of all power and energy delivered to Purchaser by UAMPS under this Agreement, which point shall be the same as the point of delivery under the Transmission Agreement.

“Pooling Agreement” means the Power Pooling Agreement between UAMPS and the Purchaser including all appendices and schedules attached thereto, as supplemented and amended from time to time.

“Transaction” means a firm power purchase and sale transaction between UAMPS and the Purchaser pursuant to this Agreement, as set forth on a Transaction Schedule.

“Transaction Schedule” means a written schedule setting forth the specific terms of a Transaction, in substantially the form attached hereto as Exhibit 1.

“Transmission Agreement” means any transmission agreement or tariff utilized by UAMPS for the transmission of power and energy from UAMPS’ point of receipt under a Firm Agreement to the Purchaser’s Point of Delivery.

1.2 The words “hereunder,” “herein,” “hereto” and similar words refer to this Agreement and references to Sections refer to the Sections of this Agreement.

1.3 This Agreement is entered into pursuant to the authority contained in the Act and in furtherance of the provisions of the Joint Action Agreement. This Agreement shall be construed in accordance with the provisions of the Act and the laws of the State of Utah.

SECTION 2 – TERM AND TERMINATION

2.1 This Agreement shall be effective on and as of the date first written above and, subject to the provisions of Section 2.3, the purchase and sale obligations of the Parties hereunder shall remain in full force and effect through the latest of (1) the date of the termination of the Joint Action Agreement, (2) ninety (90) days following notice of an election by either party to terminate this Agreement as provided in Section 2.2, and (3) March 31, 2049.

2.2 So long as no Transaction Schedule is then in effect, either Party may terminate its purchase or sale obligations under this Agreement by giving at least 90 days' written notice to the other Party of its election to terminate this Agreement.

2.3 Upon the expiration or termination of purchase and sale obligations of the Parties under this Agreement, this Agreement shall remain in effect for a period of 90 days for the limited purpose of any necessary winding-up arrangements, including the payment of any amounts owed to UAMPS by the Purchaser for services previously rendered hereunder.

SECTION 3 – REPRESENTATIONS AND WARRANTIES

3.1 Each Party represents and warrants to the other Party that (1) it possesses all legal power and authority necessary on its part to enter into this Agreement and each Transaction Schedule and to perform its obligations hereunder and thereunder, and (2) this Agreement has been duly authorized, executed and delivered by it and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms. Upon the request of the other Party, each Party agrees that it will provide such certificates and legal opinions as may be reasonably necessary to confirm the foregoing representations and warranties with respect to any Transaction

SECTION 4 – INITIAL TRANSACTION; FORMATION OF ADDITIONAL TRANSACTIONS

4.1 UAMPS has previously entered into (1) an Agreement for Supply of Power and Energy dated as of February 10, 1988 (the "Idaho Power Agreement") with the Idaho Power Company ("IPC") providing for the purchase of firm power and energy by UAMPS, and (2) Idaho Power Supply Agreements (the "Idaho Supply Agreements") with certain of the Members providing for the sale by UAMPS of all of the power and energy purchased by it under the Idaho Power Agreement. UAMPS is now engaged in negotiations with IPC regarding the terms of future firm power and energy purchases from IPC under the Idaho Power Agreement.

4.2 In the event that the Purchaser is one of the Members that has previously entered into an Idaho Supply Agreement with UAMPS, (1) the Idaho Power Agreement, as amended or supplemented as a result of such negotiations, shall constitute a Firm Agreement under this Agreement and (2) this Agreement and Transaction Schedule IPC shall be attached hereto, from and after the effective date thereof, supersede and replace in all respects the Idaho Supply Agreement between the Parties.

4.3 During the term of this Agreement, UAMPS will monitor the Members' requirements for firm supplies of power and energy and will seek to identify prospective suppliers for such requirements. UAMPS will from time to time notify the Purchaser, all other Members that have entered into firm power supply agreements comparable to this Agreement

and the appropriate committee of the Board of potential firm power supply transactions. Upon the request of the Purchaser, UAMPS will use its best efforts to negotiate and enter into additional Firm Agreements for the benefit of the Purchaser and any other requesting Members of UAMPS. Prior to the effective date of any additional Firm Agreement, UAMPS will provide to the Purchaser and to any other requesting Members the proposed terms of the Firm Agreement and Transaction Schedule, together with such additional information as UAMPS shall deem necessary or desirable.

4.4 This Agreement and each Transaction Schedule entered into by the Parties hereunder shall be read and construed as a single instrument governing a particular Transaction. In the event of any discrepancy between the provisions of this Agreement and of any Transaction Schedule, the provisions of the Transaction Schedule shall control.

SECTION 5 – PURCHASE AND SALE OF CAPACITY AND ENERGY

5.1 UAMPS shall use its best efforts to schedule for the account of the Purchaser the total capacity and associated energy from each Transaction and will use its best efforts to cause such capacity and energy to be delivered to the Purchaser at the Point of Delivery pursuant to the Transmission Agreement. The Purchaser agrees that UAMPS shall have no obligation to provide power and energy to the Purchaser under this Agreement if UAMPS is prevented from providing power and energy due to a failure to perform by the other party to a Firm Agreement, the lack of available transmission capacity or other forces beyond the control of UAMPS.

5.2 In the event that UAMPS is unable for any reason to schedule the full amount of capacity and associated energy under any Firm Agreement (whether as a result of a failure to perform by the other party under the Firm Agreement, interruptions in transmission under the Transmission Agreement or otherwise), UAMPS shall schedule for the account of the Purchaser the amount of capacity equal to the product of the Purchaser's Entitlement Share and the amount of capacity actually available to UAMPS under the affected Firm Agreement.

5.3 The Purchaser shall take and pay for all capacity and energy scheduled for its account by UAMPS pursuant to this Agreement.

SECTION 6 – OPERATING AND SCHEDULING PROCEDURES

6.1 UAMPS shall schedule all power and energy under this Agreement in accordance with its operating and scheduling procedures as approved by the Board and in effect from time to time. UAMPS shall use its best efforts to ensure that such operating and scheduling procedures, to the extent practicable, promote the efficient and economic utilization of all power and energy from each Firm Agreement for the benefit of all of the Members that have entered into a related Transaction. UAMPS shall provide timely written notice to the Purchaser of any changes in the operating and scheduling procedures.

6.2 All power and energy available to the Purchaser as a result of any Transaction shall be assigned to the UAMPS Pool Project pursuant to the Pooling Agreement.

SECTION 7 - AMOUNTS TO BE PAID BY PURCHASER

7.1 The Purchaser shall pay UAMPS for all power and energy scheduled with respect to each Transaction under this Agreement an amount equal to the sum of (1) the charges for all capacity and energy, as set forth on the applicable Transaction Schedule, scheduled for the Purchaser by UAMPS, (2) the charges for transmission of such power and energy to the Point of Delivery under the terms of the Transmission Agreement, pursuant to such methodology as shall be approved from time to time by the Board, and (3) the product of the Purchaser's Entitlement Share and such other costs and expenses of UAMPS related to a Firm Agreement, the Transmission Agreement or otherwise, as determined from time to time by the Board.

7.2 All expenses charged to or incurred by UAMPS as a result of the specific Firm Agreement, the Transmission Agreement, or any other costs, administration or otherwise, which are not satisfied by the revenue under Section 7.1 above, shall be billed to the Purchaser by multiplying such unsatisfied expenses by the Purchaser's Entitlement Share for the applicable Transaction.

7.3 The amount of power and energy purchased by the Purchaser under Section 7.1 shall be determined in accordance with UAMPS' operating and scheduling procedures, as approved by the Board and in effect from time to time.

7.4 The Purchaser shall notify UAMPS in writing of its order and priority of resources and of any changes thereto. UAMPS shall have the right to verify such resources and shall notify Purchaser of each verification or denial of a resource as soon as possible.

SECTION 8 - PAYMENTS AND SETTLEMENTS

8.1 Amounts owed by the Purchaser to UAMPS in respect of each Transaction shall be billed to the Purchaser and shall be payable by the Purchaser at the times and in the manner provided in UAMPS' prevailing billing procedures and billing period. Such billing procedures and billing period may be changed from time to time by the Board. The initial billing period under this Agreement shall be a calendar month and for so long as such billing period is in effect, (1) all payments due UAMPS hereunder shall be billed to the Purchaser by the 25th day of the month following the billing period, and (2) all payments shall be due and payable at UAMPS office by the 15th day of the following month.

8.2 If payment in full of an amount due from the Purchaser pursuant to this Agreement is not made on or before the close of business on the due date of such payment, a

delayed-payment charge on the unpaid amount due for each day overdue will be imposed at a rate equal to the lesser of one percent per month, compounded monthly, or the maximum rate lawfully payable by the Purchaser. If said due date is Saturday, Sunday or a legal holiday in the State of Utah, the next following business day shall be the last day on which payment may be made without the addition of the delayed-payment charge.

8.3 In the event of any dispute as to any portion of any amount due from the Purchaser to UAMPS pursuant to this Agreement, the Purchaser shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to UAMPS not later than the 60th day after such bill was submitted. Such notice shall identify the disputed bill, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. The Board shall give consideration to such dispute and shall advise the Purchaser with regard to its position relative thereto within forty (40) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount paid shall be accounted for on the statement next submitted to the Purchaser after such determination.

8.4 All payments made by the Purchaser pursuant to this Agreement shall constitute a cost of purchased electric capacity and energy and an operating and maintenance expense of its electric system and UAMPS shall be entitled, in the event of any non-payment by the Purchaser of any amounts due under this Agreement, to all of the rights and remedies of any other unpaid supplier of goods and services for use in the operation and maintenance of the Purchaser's electric system.

8.5 The obligation of the Purchaser to make the payments provided for in this Agreement shall be limited to the revenues and available reserves of the electric system of the Purchaser. In no event shall the payment obligations of the Purchaser under this Agreement be deemed to constitute an indebtedness or liability of the Purchaser within the meaning of any applicable constitutional or statutory limitation or restriction and the Purchaser shall not be obligated to levy any taxes, general or special, for the purpose of paying to UAMPS, or to any assignee of UAMPS, any sum due under this Agreement.

SECTION 9 – GENERAL PROVISIONS

9.1 Either Party shall have the right, at all reasonable times, to review and audit the books, records and documents of the other Party, directly pertaining to the billings and power delivery data required to administer this Agreement. Information obtained by either Party's representatives in examining the other Party's applicable records to verify such billings and power delivery data shall not be disclosed to third parties without prior written consent of the audited Party.

9.2 UAMPS hereby classifies this Agreement, each Firm Agreement and each Transaction Schedule hereunder, and all books, records and data relating hereto, as “protected records” within the meaning of the Government Records Access and Management Act, Title 63, Chapter 2, Utah Code Annotated 1953, as amended (“GRAMA”), and its policies thereunder. Such classification is based upon, among other things, the provisions of Section 63-2-304(3) and (4), Utah Code Annotated 1953, as amended, and the immediate and substantial financial and commercial harm that would be suffered by UAMPS as a result of the disclosure of such information to actual or potential competitors. The Purchaser agrees that this Agreement, each Firm Agreement and each Transaction Schedule, and all books, records and data relating hereto contain sensitive commercial information, the disclosure of which to actual or potential competitors will cause immediate and substantial financial and commercial harm to the UAMPS and the Purchaser, but has not classified this Agreement or any of the documents and records relating to this Agreement as a “protected record” under GRAMA. The Purchaser agrees that it will use its best efforts, to the extent permitted by GRAMA, to avoid disclosing to any person the commercial information contained in this Agreement, each Firm Agreement and each Transaction Schedule hereunder, and all books, records and data relating hereto. In the event that the Purchaser receives a request for disclosure of the material described in this section, the Purchaser agrees that it shall use its best efforts to immediately notify UAMPS and afford UAMPS the opportunity to contest any disclosure of the same.

9.3 A waiver at any time by a Party of its rights with respect to a default under this Agreement, or with respect to any other matter arising in connection with this Agreement, shall not be deemed a waiver with respect to any subsequent default or matter. No delay, short of the statutory period of limitations, in asserting or enforcing any right hereunder shall be deemed a waiver of such right.

9.4 Any notice or demand by the Purchaser to UAMPS under this Agreement shall be deemed properly given if mailed postage prepaid and addressed to UAMPS at its principal office or if telecopied to UAMPS with receipt confirmed, followed by a written copy of such notice or demand mailed to UAMPS postage prepaid; any notice or demand by UAMPS to the Purchaser under this Agreement shall be deemed properly given if mailed postage prepaid and addressed to the Purchaser’s Representative at his address on file with UAMPS or if telecopied to the Purchaser’s Representative with receipt confirmed, followed by a written copy of such notice or demand mailed to the Purchaser’s Representative postage prepaid. The designations of the name and the address to which any such notice or demand is directed above may be changed from time to time by either Party by giving written notice as provided above.

9.5 The Purchaser may not assign or transfer this Agreement or its any of its rights hereunder, nor may it sell, assign or dispose of all or any portion of its Entitlement Share without first obtaining the written approval of UAMPS.

9.6 This Agreement shall not be construed to require either Party to provide or purchase power and energy from any other agreement, other than this Agreement.

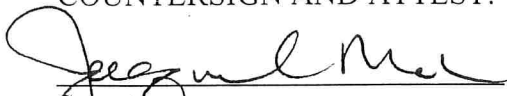
IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed by their authorized officers as of the date first above written.

UTAH ASSOCIATED MUNICIPAL
POWER SYSTEMS

By: 
Chairman

[SEAL]

COUNTERSIGN AND ATTEST:


Secretary

CITY OF SPRINGVILLE

By: 
Mayor

[SEAL]

COUNTERSIGN AND ATTEST:


City Recorder

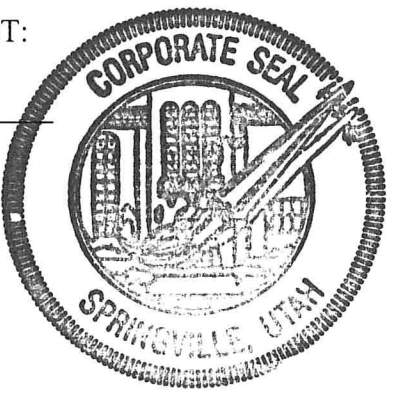


EXHIBIT 1

FORM OF TRANSACTION SCHEDULE

Firm Agreement:	_____
Effective Date:	_____
Term:	_____
Type of Delivery:	Firm Capacity and Energy
Total Capacity and Energy:	_____
Price:	\$_____/MW; \$_____/MWh
Purchaser's Entitlement Share:	_____

UTAH ASSOCIATED MUNICIPAL
POWER SYSTEMS

By_____

[PURCHASER]

By_____

**SOLAR POWER PURCHASE AGREEMENT BETWEEN
UTAH ASSOCIATED MUNICIPAL POWER SYSTEMS**

AND

NTUA GENERATION - UTAH, LLC

DATED AS OF [____], 2019

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SOLAR POWER PURCHASE AGREEMENT

THIS SOLAR POWER PURCHASE AGREEMENT is made and entered into as of [REDACTED], 2019 by and between Utah Associated Municipal Power Systems (“Buyer”), a political subdivision of the State of Utah, and NTUA Generation – Utah, LLC (“Seller”), a limited liability company organized and existing under the Laws of the State of Delaware.

WITNESSETH

WHEREAS, Seller is an entity that is at least 51% owned by a wholly-owned subsidiary of the Navajo Tribal Utility Authority.

WHEREAS, Seller proposes to construct, to own, operate and maintain an approximately 60 MW solar photovoltaic generation facility (the “Project” as further defined in Exhibit 1) on the Navajo Nation;

WHEREAS, Buyer desires to purchase Energy Output produced by the Project from Seller and Seller desires to sell such Energy Output to Buyer;

WHEREAS, the Parties desire to set forth in writing their respective rights and obligations with respect to the purchase and sale of such Energy Output;

NOW, THEREFORE, in consideration of the mutual obligations and undertakings herein contained, and intending to be legally bound hereby, the Parties hereto agree as follows:

ARTICLE I **DEFINITIONS**

Section 1.1 Defined Terms. As used herein:

“Affiliate” shall mean, as to any Party, any Person (other than a natural person or a Tax Investor) that directly, or indirectly through one or more intermediaries, (i) controls, is controlled by, or is under common control with such Party, or (ii) is the beneficial owner of fifty percent (50%) or more of any class of equity securities of, or other ownership interests in, such Party or of which such Party is directly or indirectly the owner of fifty percent (50%) or more of any class of equity securities or other ownership interests.

“After-Tax Basis” shall mean that a payment received or deemed to have been received by a Party (the “Original Payment”) under this Agreement shall be supplemented by a further payment to such Party so that the sum of the two payments equals the Original Payment, after taking into account all Taxes that would result from the receipt or accrual of such payment by such Party (or, if such Party is a pass-through entity for tax purposes, such Party’s owners) calculated by reference to the highest federal and statutory Tax rates applicable to corporations doing business in the State of Utah and on a present value basis using a discount rate of seven percent (7%).

“Agreement” shall mean this Solar Power Purchase Agreement, including all exhibits hereto, and any written amendments hereto that may be made from time to time in accordance herewith.

“Annual Quantity Shortfall” shall have the meaning set forth in Section 6.2(a)(i).

“Associated Party” shall mean, with respect to any Party, any Affiliate of such Party, any officer, director, trustee, fiduciary, employee, agent, representative, insurer, consultant, contractor or subcontractor of such Party. With respect to Article IX, any Person that visits the Project Site on behalf of the Buyer pursuant to Section 6.1(e) or 6.1(f) shall be considered a Buyer’s Associated Party.

“Authorization” shall mean any license, permit, approval, filing, waiver, exemption, variance, clearance, entitlement, allowance, franchise, or other authorization from or by a Governmental Authority.

“Bankruptcy Law” shall mean any Law relating to bankruptcy, insolvency, reorganization, winding-up, or composition or adjustment of debts.

“Business Day” shall mean every day other than a Saturday or Sunday or any other day on which banks in the State of Utah are permitted or required to remain closed.

“Buyer” shall have the meaning set forth in the Preamble.

“Buyer’s Step-In Rights” shall mean those step-in rights that are enumerated in Exhibit 6.

“Claim” shall have the meaning set forth in Section 9.1(a).

“Code” shall mean the United States Internal Revenue Code of 1986, as amended from time to time, and any successor statute.

“Collateral Assignee” shall have the meaning set forth in Section 7.2.

“Commercial Operation” shall mean that each of the following conditions has been satisfied or waived by the Parties: (i) the photovoltaic electric generation equipment for the entire Project has been installed, has satisfactorily completed all startup testing, and all Modules have been Commissioned, (ii) all Project systems have been completed in all material respects and are capable of delivering Energy to the Project Delivery Point in accordance with Good Utility Practice, as demonstrated through an operational test of the Project to be conducted for 168 continuous hours (taking into account the photovoltaic nature of the Project) in accordance with ASTM E2848 (Standard Test Method for Reporting Photovoltaic Non-Concentrator System Performance) and the Project has otherwise successfully achieved the requirements for substantial completion under the Project engineering, procurement and construction contract, (iii) the entire Project is fully operational, reliable and interconnected, and fully integrated and synchronized with the Transmission System, and Seller has delivered to Buyer notice to that effect, (iv) Buyer has transmission arrangements in place to take delivery of the output and deliver it to Buyer’s loads, and (v) Seller has received all permits necessary for commercial operation and sale in accordance with the Agreement.

“Commercial Operation Date” shall mean the date on which the Project has achieved Commercial Operation.

“Commissioned” shall mean, with respect to any Module, that such Module has been successfully installed and tested in accordance with the manufacturers recommendations enabling the Module to commence the regular delivery of Energy.

“Contract Capacity” shall mean 66 MW, or such other amount determined pursuant to the adjustment provision of clause (ii) of the penultimate sentence of Section 3.3(b), in each case to the extent applicable.

“Contract Price” shall mean the price for Energy and Environmental Attributes at the Project Delivery Point, as provided in Section 4.1(c).

“Contract Term” shall commence on the Effective Date and shall end upon the last day of the Project Delivery Term.

“Costs” shall mean, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party in entering into a new arrangement or arrangements which replace this Agreement; and all reasonable attorneys’ fees and expenses incurred by the Non-Defaulting Party in connection with the termination of this Agreement.

“Curtailment” shall mean (i) a reduction in transmission or distribution service ordered by the Transmission Provider, any Governmental Authority having jurisdiction over the Project, Transmission Provider’s Interconnection Facilities, Transmission Provider’s System which results in a reduction in the amount of Energy which can be delivered from the Project to the Project Delivery Point, or (ii) any other reduction of the output of the Project due to conditions or circumstances that are outside the control of Seller or any of its Associated Parties. For the avoidance of doubt, Curtailment does not include Economic Curtailment.

“Damage Payment” shall mean the dollar amount that is equal to the Development Security amount required hereunder less any Delay Damages, if any paid by Seller to Buyer.

“Deemed Generation” shall mean, for any hour, the sum, without duplication, of (i) the Lost Production for such hour, (ii) a reduction in the output of the Project due to a Curtailment during such hour and (iii) the amount by which the Maximum Project Output is reduced due to (a) a Force Majeure affecting Buyer, Seller, the System or Transmission Provider; (b) actions or inactions of Buyer, (c) actions or inactions of the Transmission Provider, including maintenance of Transmission Provider’s Interconnection Facilities or transmission or distribution system, or (d) any Forced Outage; provided in each case that the reduction was not caused by the actions or omissions of Seller or any of its Associated Parties.

“Defaulting Party” shall have the meaning set forth in Section 10.3(a).

“Delay Damages” shall mean, for any day, the amount equal to the value set forth in Exhibit 7 corresponding to the month in which the delay occurs multiplied by a fraction, the numerator of which is the Contract Capacity reduced by the Rated Capacity of the Project and the denominator of which is the Contract Capacity.

“Delivery Meter” shall have the meaning set forth in Section 5.3.

“Designated Representatives” shall mean the representatives of Seller and Buyer designated pursuant to Section 6.1(f), respectively.

“Development Security” shall mean security posted prior to the Commercial Operation Date pursuant to Section 10.9.

“Dispute” shall have the meaning set forth in Section 10.6(a)(i).

“Due Date” shall have the meaning set forth in Section 4.4(a)(i).

“Early Termination Date” shall have the meaning set forth in Section 10.3(a).

“Economic Curtailment” shall mean curtailments of delivery of Energy that arise from Buyer’s actions in its capacity as Scheduling Coordinator for the Project, including as a result of any offers of price and quantity that result in curtailment, as may be required by Buyer; provided that the first 1,000 MWh of such curtailment in each Measurement Period shall not be deemed an Economic Curtailment.

“Effective Date” shall mean the date the conditions precedent set forth in Section 3.4 have been satisfied or waived.

“Energy” shall mean three-phase, 60 hertz, alternating current energy generated at the Project.

“Energy Output” (a) shall mean the amount of Energy (expressed in MWh) delivered at the Project Delivery Point, as metered by the Metering Equipment, and (b) for all purposes of this Agreement shall be deemed to include any RECs and other Environmental Attributes associated with such Energy as well as any rights to capacity, reliability or other ancillary benefits that may arise in the future.

“Energy Output Replacement Cost” shall mean the greater of (i) \$10/MWh or (ii) the simple average of the Hourly Mead Index published by Powerdex for the Summer Months or the Non-Summer Months, as applicable, minus the Contract Price.

“Environmental Attributes” shall mean the aggregate amount of credits, certificates, set-offs, payments, rights, attributes, or other benefits of all kinds associated with or arising out of or otherwise corresponding to the Rated Capacity and associated Energy, or otherwise arising due to the production of Energy from the Project and the sale, transmission and distribution of such Energy by Seller, Buyer and others, other than payments under this Agreement and Tax Benefits. Environmental Attributes shall include (i) environmental air quality credits, off-sets, carbon credits, or other benefits related to the generation of Energy from the Project in a manner which reduces, displaces or off- sets emissions resulting from fuel combustion at another location pursuant to any Law, and (ii) credits (including carbon credits), off-sets, green pricing programs, renewable energy credit trading programs, or any similar program or benefits derived from the use, purchase or distribution of renewable energy from the generation of Energy from the Project pursuant to any Law.

“Event of Default” shall have the meaning set forth in Sections 10.1 and 10.2.

“Excused Delay” shall mean a delay in achieving the Commercial Operation Date due to Force Majeure, delay by or on behalf of Transmission Provider in entering into or performing its obligations under any agreement, breach by Buyer of this Agreement (including Seller’s exercise of any remedies for such breach), or any other action or inaction of Buyer or Transmission Provider which prevents Seller from performing its obligations under this Agreement in a timely manner. “Excused Delay” shall not include any delay resulting from the acts or omissions of Seller or any of Seller’s Associated Parties.

“Existing RPS Programs” shall mean the RPS programs for which the Project is eligible as of the execution date of this Agreement.

“Fair Market Value” shall mean, with respect to a particular time of calculation, the amount a willing buyer would pay for the Project assets and all rights and interests associated therewith, in an arm’s-length transaction, to a willing seller under no compulsion to sell, taking into account all relevant facts and circumstances relating to the Project, as of the particular time of calculation.

“FERC” shall mean the Federal Energy Regulatory Commission, or any successor to its functions under the Federal Power Act, as amended.

“Fitch” shall mean Fitch Ratings, Inc., or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

“Force Majeure” shall have the meaning set forth in Section 8.1.

“Forced Outage” shall mean the removal from service of the Project or any portion of the Project, for reasons of (a) an emergency affecting the Project, the Project Site or the transmission or distribution system including but not limited to the Transmission Provider’s System and Transmission Provider’s Interconnection Facilities or (b) any condition in which the Project or any portion of a Project is unavailable due to Force Majeure. “Forced Outage” does not include any planned outage of the Project or any portion of the Project for maintenance, repair or replacement or any other outage that is within the control of Seller or any of its Associated Parties.

“Future RPS Programs” shall mean, at any point during the Contract Term, those RPS programs implemented within WECC and any other RPS programs in each case for which the Project is eligible at such time, including any RPS programs that supplement, replace or supersede any of the Existing RPS Programs for which the Project is eligible at such time.

“Gains” shall mean, with respect to any Party, an amount equal to the present value (determined using a discount rate of seven percent (7%)) of the economic benefit to it, if any (exclusive of Costs), resulting from the termination of this Agreement, determined in a commercially reasonable manner.

“Good Utility Practice” shall mean any of the practices, methods and acts employed by constructors, owners, operators or maintainers of solar electric generating facilities within the United States similar in size and operational characteristics to the Project which, in the exercise of reasonable judgment in the light of the facts known at the time that a decision was made, could reasonably have been expected to accomplish the desired result at the lowest reasonable cost, consistent with licensing and regulatory considerations, environmental considerations, reliability, safety, protection of lives and property, expedition, the technical specifications and manufacturer’s

maintenance requirements for the Project , and the applicable requirements of any Governmental Authority. Good Utility Practice is not intended to be limited to the optimum practice, method or act, to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts employed by constructors, owners, operators and/or maintainers of photovoltaic electric generating facilities similar in size and operational characteristics to the Project.

“Governmental Authority” shall mean the federal government of the United States, and any state, county or local government, and any regulatory department, body, political subdivision, commission, agency, instrumentality, ministry, court, judicial or administrative body, taxing authority, or other authority of any of the foregoing (including any corporation or other entity owned or controlled by any of the foregoing), any regional reliability council, any regional transmission organization, or any independent system operator, having jurisdiction over either Party, the Project, Project Site, or Transmission Provider’s System, whether acting under actual or assumed authority, but for the avoidance of doubt excluding Buyer.

“Guaranteed Commercial Operation Date” shall mean the later of (a) the date that is six (6) months following the Scheduled Commercial Operation Date as such Scheduled Commercial Operation Date has been extended or (b) December 1, 2022; provided, however, that the Guaranteed Commercial Operation Date shall be extended on a day-for-day basis, for any delay in achieving the Commercial Operation Date due to an Excused Delay, but subject to the provisions of Section 3.2(b).

“Indemnifiable Cost” shall mean any cost, expense, damage, fine, penalty, liability or other loss, including reasonable out-of-pocket legal, accounting, consulting, engineering, investigatory, expert witness and other fees and expenses.

“Indemnified Party” shall have the meaning set forth in Section 9.2(f)(i).

“Indemnifying Party” shall have the meaning set forth in Section 9.2(f)(i).

“Insolation” shall mean the watt-hour per square meter insolation on the applicable Project Site, as measured by Seller’s pyranometer or similar measurement device installed at the angle of module tilt and located within the boundaries of the Project Site. Insolation data will be time synchronized to Seller’s metering and historical data and the meteorological conditions during the relevant time period, will be made available to Buyer, and shall be used to calculate Lost Production.

“Interconnection Provider” shall mean Navajo Tribal Utility Authority, an enterprise of the Navajo Nation, acting in its interconnection or transmission function capacity or any successor.

“Interconnection Provider’s Interconnection Facilities” shall mean all equipment and facilities on the Interconnection Provider’s side of the Project Delivery Point for the purpose of interconnecting the Project to Transmission Provider’s System under UAMPS Network Service Agreement with PacifiCorp.

“Investment Grade Credit Rating” shall mean that the applicable entity has a long-term credit rating (corporate or long-term senior unsecured debt) from at least one of S&P, Moody’s, or Fitch and is rated “BBB-” or better, in the case of S&P and Fitch, or “Baa3” or better, in the case of Moody’s; provided, however, such entity shall be deemed not to have an “Investment

Grade Credit Rating” if either (x) such entity’s long-term credit rating is lower than “BBB-” by either S&P or Fitch or lower than “Baa3” by Moody’s or (y)(1) such entity’s long-term credit rating is “BBB-” by S&P or Fitch or “Baa3” by Moody’s and (2) a “credit watch,” “negative outlook” or other rating decline alert has been issued by S&P, Fitch, and/or Moody’s with respect to such entity.

“ITC” shall mean the investment tax credit established pursuant to Section 48 of the Internal Revenue Code of 1986, as it may be amended from time to time.

“Late Payment Rate” shall mean, for any period, the lesser of (i) the Prime Rate plus two percent (2%), or (ii) the maximum rate permitted by applicable Law.

“Law” shall mean (i) any law, legislation, statute, act, rule, ordinance, decree, treaty, regulation, order, judgment, or other similar legal requirement, or (ii) any legally binding announcement, directive or published practice or interpretation thereof, enacted, issued or promulgated by any Governmental Authority.

“Lender” shall mean any entity providing debt financing, refinancing of any such financing, tax equity financing or refinancing, or any guarantee, insurance, credit enhancement, swap, cap, floor, collar, hedging agreement, working capital financing, or credit support for or in connection with such financing or refinancing of any such financing, in connection with the development, construction, ownership or leasing, operation or maintenance of the Project.

“Letter of Credit” shall mean an irrevocable standby letter of credit in a form reasonably acceptable to Buyer, naming Buyer as the party entitled to demand payment and present draw requests thereunder that is issued by a Qualified Issuer.

“Lost Production” shall mean, for any period, the amount by which the Maximum Project Output is reduced due to (a) a breach of the Agreement by Buyer, with respect to which Seller has provided written notice to Buyer, (i) where Buyer has failed to accept from Seller any Energy Output of the Project delivered to the Project Delivery Point or (ii) that results in a suspension of performance by Seller in accordance with Section 10.3(a)(iii) or Section 10.4, or (b) with respect to the Project, any Energy which Seller did not generate and deliver to the Project Delivery Point due to an Economic Curtailment.

“Losses” shall mean, with respect to any Party, an amount equal to the present value (determined using a discount rate of seven percent (7%)) of the economic loss to it, if any (exclusive of Costs), resulting from termination of this Agreement, determined in a commercially reasonable manner. In the case of Seller, Losses shall include, on an After-Tax Basis, the amount of lost Tax Benefits.

“Market” shall mean an Energy imbalance market or a day-ahead Energy market operated by an RTO, an independent system operator or another Market Operator.

“Market Operator” shall mean the RTO or other Person operating the Market, controlling, managing, or operating transmission that is subject to the Market or dispatching or curtailing generation participating in the Market.

“Maximum Project Output” shall mean, for any hour, the amount of Energy that the Project would have been able to produce during the hour, based on the average Insolation for such hour; provided that the Maximum Project Output for any hour shall be reduced, but not below zero, to the extent that the Project would not otherwise have been available during such hour due to a maintenance outage or other circumstance solely within the control of Seller. For the avoidance of doubt, the Maximum Project Output shall not be reduced to the extent the Project is not available during such hour due to a Forced Outage, derating or any other circumstance that is not solely within the control of Seller.

“Measurement Period” shall mean a period of twelve (12) consecutive months, with the first Measurement Period beginning on the first day of the first full month after the Commercial Operation Date and ending on the last day of the twelfth month thereafter and each subsequent Measurement Period beginning on the first day after the end of the prior Measurement Period and continuing for a period of twelve (12) months thereafter.

“Metering Equipment” shall mean the Delivery Meters and/or the Seller Metering Equipment as specified in Section 5 of this Agreement.

“Minimum Credit Rating” shall mean a long-term credit rating (corporate or long-term senior unsecured debt) from at least one of S&P, Moody’s, or Fitch that is equal to or better than its Investment Grade Credit Rating.

“Module” shall mean a discrete unit of photovoltaic cells and inverter(s). One Module includes all equipment associated with a single inverter.

“Moody’s” shall mean Moody’s Investor Service, Inc. or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

“MW” shall mean one megawatt of alternating current electric capacity, measured on the basis of alternating current (“AC”) electric capacity.

“MWh” shall mean one megawatt-hour of energy AC.

“NERC” shall mean the North American Electric Reliability Corporation or any successor thereto.

“Net Annual Delivery Guarantee”, for any two (2) consecutive Measurement Periods, shall mean eighty-five percent (85%) of the sum of the Net Annual Delivery Quantity for such Measurement Periods. For the avoidance of doubt, the calculation of whether Seller has satisfied the Net Annual Delivery Guarantee shall include Deemed Generation during the applicable Measurement Period.

“Net Annual Delivery Quantity” shall have the meaning set forth in Exhibit 2 of this Agreement.

“Parties” shall mean Buyer and Seller.

“Party” shall mean Buyer or Seller, as applicable.

“Performance Security” shall mean security posted on and after the Commercial Operation Date pursuant to Section 10.9.

“Person” shall mean any legal or natural person, including any individual, corporation, partnership, limited liability company, joint stock company, association, joint venture, trust, governmental or international body or agency, or other entity.

“Prime Rate” shall mean, for any period, the “Prime Rate” per annum, determined as of the date the obligation to pay interest arises, and adjusted from time to time thereafter, as reported by the Wall Street Journal as the base rate on corporate loans posted by at least seventy-five percent (75%) of the nation’s thirty (30) largest banks for such day, as such “Prime Rate” may change from time to time. In the event that the Wall Street Journal ceases to publish the “Prime Rate,” then Buyer and Seller shall agree as to a substitute reference that represents the base rate on corporate loans posted by major banks having one or more lending offices in New York, New York.

“Project” shall have the meaning set forth in the recitals to this Agreement.

“Project Delivery Point” shall have the meaning set forth in Section 5.1(b).

“Project Delivery Term” shall mean the Commercial Operation Date until 11:59 PM E.P.T. on the date that is twenty five (25) years after the Commercial Operation Date, which period may be extended by mutual agreement of the Parties provided that an independent, licensed appraisal and valuation consultant that is mutually agreed upon by Buyer and Seller (the “Appraiser”) has determined that (i) the Project Delivery Term as so extended shall not extend for more than eighty percent (80%) of the estimated useful life of the Project, and (ii) the estimated remaining residual value of the Project at the conclusion of the Project Delivery Term as so extended shall be equal to at least twenty percent (20%) of the original cost of the Project.

“Project Interconnection Agreement” shall mean a Large Generator Interconnection Agreement between the Seller and the Interconnection Provider for delivery of Energy to the Project Delivery Point, together with all specifications, appendices and schedules thereto, as such agreement may be amended from time to time.

“Project Site” shall mean the real property(ies) on which the Project’s photovoltaic electric generation facilities will be located and described on Exhibit 1.

“Proprietary Information” shall have the meaning set forth in Section 12.7(f).

“Qualified Issuer” shall mean a U.S. commercial bank (or a foreign bank with a U.S. branch) having a combined capital surplus of at least \$10 billion and a senior unsecured long term Credit Rating equivalent to “BBB+” or better as determined by Standard & Poor’s and “A3” or better as determined by Moody’s.

“Rated Capacity” shall mean, pursuant to Section 3.3(b), at any given time, the aggregate capacity for instantaneous delivery of Energy from the Project at such time; provided, however, that the Project shall have satisfied all the criteria for Commercial Operation with respect to such aggregate capacity.

“REC Generator” shall mean, with respect to an Existing RPS Program or Future RPS Program, a generating unit that has a state certification number in the state to which such Existing RPS Program or Future RPS Program applies.

“REC Trading Account” shall mean a tracking account for any Existing RPS Program or Future RPS Program.

“Renewable Energy Credits” or “RECs” shall mean all renewable energy credits, offsets, or other benefits allocated, assigned or otherwise awarded or certified to Seller or Buyer by any Governmental Authority, program administrator or other certification board or other Person generally recognized in the solar generation industry in connection with the Project that are attributable to the Energy output of the Project, but in all cases shall specifically exclude Tax Benefits.

“RPS” shall have the meaning as set forth in the applicable Law.

“RTO” means any entity (including, but not limited to, a regional transmission organization or an independent system operator) that becomes responsible as system operator for, or directs the operation of, the System.

“Scheduled Commercial Operation Date” shall mean June 1, 2022, provided, however, that the Scheduled Commercial Operation Date shall be extended on a day-for-day basis, or such longer time as may be necessary under the circumstances, for any delay in achieving the Commercial Operation Date due to an Excused Delay.

“Scheduling Coordinator” means the Buyer or its designee or, upon the formation of a RTO, an entity, which may be the Buyer or its designee, certified by the RTO as qualifying as a Scheduling Coordinator pursuant to the Tariff, as amended from time-to-time.

“S&P” shall mean Standard & Poor’s or any successor thereto, or in the event that there is no such successor, a nationally recognized credit rating agency.

“Security” shall mean Development Security, Performance Security or both as applicable.

“Seller” shall have the meaning set forth in the Preamble.

“Seller Metering Equipment” shall have the meaning set forth in Section 5.3(a).

“Seller Parent Company” shall mean NTUA Generation, Inc..

“Settlement Amount” shall mean the Non-Defaulting Party’s Costs and Losses on the one hand, netted against its Gains, on the other, expressed in U.S. Dollars, which a Party incurs or realizes as a result of the termination of this Agreement pursuant to Section 10.3.

“Substantial Commercial Operation” shall have the meaning set forth in Section 3.3(a)(i).

“System” means the electric substation and transmission or distribution facilities owned, operated or maintained by the Transmission Provider.

“Tax” shall mean any tax (including franchise tax), charge, fee, levy or other assessment imposed by any Governmental Authority and based on or measured with respect to net income or

profits, including any interest, penalties or additions attributable or imposed with respect thereto, and any tax, charge, levy, fee or other assessment, including any transfer, gross receipts, sales, use, service, occupation, ad valorem, property, payroll, personal property, excise, severance, premium, stamp, documentary, license, registration, social security, employment, unemployment, disability, environmental (including taxes under Section 59A of the Code), add-on, value-added, withholding (whether payable directly or by withholding and whether or not requiring the filing of a tax return therefor), commercial rent and occupancy tax, and any estimated tax, deficiency assessment, interest, penalties and additions to tax or additional amounts in connection therewith, imposed by any Governmental Authority.

“Tax Benefits” shall mean federal, state or local investment tax credits (including ITCs), or any other tax credits or benefits which are or will be generated by the Project, or any cash payments, outright grants of money or incentives from a Governmental Authority relating in any way to the development, ownership or operation of, or production from, the Project.

“Tax Investor” shall mean any Person who acquires a direct or indirect interest in Seller as a part of a transaction to ensure that the Project is owned in whole or in part by a Person able to use the Tax Benefits associated with holding an ownership interest in the Project.

“Termination Payment” shall have the meaning set forth in Section 10.3. “Transferee” shall have the meaning set forth in Section 12.7(a).

“Transferor” shall have the meaning set forth in Section 12.7(a).

“Transmission Provider” shall mean PacifiCorp, an Oregon corporation, acting in its interconnection or transmission function capacity or any successor.

“Transmission Provider’s Interconnection Facilities” shall mean all equipment and facilities on the Transmission Provider’s side of the Project Delivery Point for the purpose of interconnecting the Project to Transmission Provider’s System under UAMPS’ Network Service Agreement with PacifiCorp.

Section 1.2 Rules of Interpretation.

(a) Unless otherwise required by the context in which any term appears:

(i) Capitalized terms used in this Agreement shall have the meanings given in this Article.

(ii) The singular shall include the plural and the masculine shall include the feminine and neuter.

(iii) References to “Articles,” “Sections,” or “Exhibits” shall be to articles, sections, or exhibits of this Agreement, and references to “Paragraphs” or “Clauses” shall be to separate paragraphs or clauses of the section or subsection in which the reference occurs.

(iv) The words “herein,” “hereof” and “hereunder” shall refer to this Agreement as a whole and not to any particular section or subsection of this Agreement unless the context indicates otherwise; the words “include,” “includes” or “including” shall mean “including, but not limited to”.

(v) The term “day” shall mean calendar day. The term “week” shall mean a calendar week, and the term “month” shall mean a calendar month; provided that when a period measured in months commences on a date other than the first day of a month, the period shall run from the date on which it starts to the corresponding date in the next month and, as appropriate, to succeeding months thereafter. The term “year” shall mean a calendar year. Whenever an event is to be performed, a period commences or ends, or a payment is to be made on or by a particular date and the date in question falls on a day which is not a Business Day, the event shall be performed, or the payment shall be made, on the next succeeding Business Day, provided, however, that all calculations shall be made regardless of whether any given day is a Business Day and whether or not any given period ends on a Business Day.

(vi) The term “negligence” shall mean negligence of a Person, including negligence arising from or as a result of the negligence of an officer, director, manager, foreman, or other employee or agent of the Person, in each case acting within the scope of their authority in the course of their employment; and the term “willful misconduct” shall mean action taken or not taken by a Person, including action taken or not taken by an officer, director, manager, foreman, or other employee of the Person, in each case acting in the course of their employment, which action is knowingly or intentionally taken or not taken: (A) with intent that injury or damage would result therefrom, (B) with conscious indifference to the consequences thereof, or (C) in knowing violation of any Law. Without limiting the foregoing definition in any way, willful misconduct does not include any act or failure to act which is involuntary, accidental, unintentional, or negligent, based on any theory of negligence.

(vii) All accounting terms not specifically defined herein shall be construed in accordance with generally accepted accounting principles in the United States of America, as sanctioned by the Financial Accounting Standards Board, consistently applied.

(viii) All references to a particular entity shall include such entity’s successors and permitted assigns.

(ix) All references herein to any Law or to any contract or other agreement shall be to such Law, contract or other agreement as amended and supplemented or modified from time-to-time.

(x) Reference to Force Majeure as an excuse of non-performance in any provision shall not be interpreted to mean that Force Majeure is not an excuse with respect to other provisions where it is not specifically mentioned.

(b) The titles of the articles and sections herein have been inserted as a matter of convenience of reference only, and shall not control or affect the meaning or construction of any of the terms or provisions hereof.

(c) This Agreement was negotiated and prepared by both Parties with advice of counsel to the extent deemed necessary by each Party; the Parties have agreed to the wording of this Agreement; and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part thereof.

(d) The exhibits, schedule and annexes hereto are incorporated in and are intended to be a part of this Agreement; provided, however, that in the event of a conflict between the terms of any exhibit, schedule or annex and the terms of this Agreement, the terms of this Agreement shall take precedence.

(e) The Parties shall act reasonably and in accordance with the principles of good faith and fair dealing in the performance of this Agreement. Unless expressly provided otherwise in this Agreement, (i) where this Agreement requires the consent, approval, or similar action by a Party, such consent, approval or similar action shall not be unreasonably withheld, conditioned or delayed, and (ii) wherever this Agreement gives a Party a right to determine, require, specify or take similar action with respect to a matter, such determination, requirement, specification or similar action shall be reasonable.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of Buyer. Buyer makes the following representations and warranties to Seller, each of which is true and correct on the Effective Date:

(a) Buyer is chartered by, and duly organized and in good standing under the Laws of the State of Utah and is duly qualified to conduct business in any jurisdiction in which it is required to be so qualified.

(b) Buyer possesses all requisite corporate power and authority to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated herein. Buyer has all legal power and authority to own and use its properties and to transact the business in which it engages or proposes to engage, and holds or expects to obtain all Authorizations necessary and required therefor.

(c) Buyer's execution, delivery and performance of this Agreement have been duly authorized by, and are in accordance with, its articles of incorporation and by-laws; this Agreement has been duly executed and delivered for it by the signatories so authorized; and this Agreement constitutes its legal, valid, and binding obligation, enforceable against it in accordance with the terms hereof, except as such enforceability may be limited by applicable Bankruptcy Laws, or by general principles of equity (regardless of whether such enforcement is considered in equity or at law).

(d) Buyer's performance of this Agreement (i) will not result in a material breach or violation of, or constitute a material default under, any Authorization, or any contract,

lease or other agreement or instrument to which it is a party, or by which it or its properties may be bound or affected; and (ii) does not require any Authorization, or the consent, authorization or notification of any other Person, or any other action by or with respect to any other Person, other than (A) such Authorizations, consents, authorizations, notifications, and other actions as have already been obtained, made, or taken, as applicable, and (B) such Authorizations, consents, authorizations, notifications, or other actions which are not required to have been obtained, made, or taken, as applicable, prior to the date on which this representation and warranty is made, and which are reasonably expected to be obtained, made, or taken on a timely basis and in due course.

(e) No suit, action or arbitration, or legal, administrative or other proceeding is pending or, to Buyer's knowledge, has been threatened against Buyer that would affect the validity or enforceability of this Agreement or the ability of Buyer to perform its obligations hereunder in any material respect, or that would, if adversely determined, have a material adverse effect on the business or financial condition of Buyer. There are no bankruptcy, insolvency, reorganization, receivership or other arrangement proceedings pending against or being contemplated by Buyer, or, to Buyer's knowledge, threatened against it.

(f) Buyer is not in breach of, in default under, or in violation of, any applicable Law, or the provisions of any Authorization, or in breach of, in default under, or in violation of, any provision of any promissory note, indenture or any evidence of indebtedness or security therefor, lease, contract, or other agreement by which it is bound, except for any such breaches, defaults or violations which, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of Buyer or its ability to perform its obligations hereunder.

Section 2.2 Representations and Warranties of Seller. Seller makes the following representations, warranties or covenants to Buyer, each of which is true and correct on the Effective Date:

(a) Seller is a limited liability company duly organized and in good standing under the Laws of the State of Delaware and is duly qualified to conduct business in any jurisdiction in which it is required to be so qualified.

(b) Seller possesses all requisite legal power and authority to enter into and perform its obligations under this Agreement and to carry out the transactions contemplated herein. Seller has all legal power and authority to own and use its properties and to transact the business in which it engages or proposes to engage, and holds or expects to obtain all Authorizations necessary and required therefor.

(c) Seller's execution, delivery and performance of this Agreement have been duly authorized by, and are in accordance with, its certificate of formation and its limited liability company agreement; this Agreement has been duly executed and delivered for it by the signatories so authorized; and this Agreement constitutes its legal, valid, and binding obligation, enforceable against it in accordance with the terms hereof, except as such enforceability may be limited by applicable Bankruptcy Laws, or by general principles of equity (regardless of whether such enforcement is considered in equity or at law).

(d) Seller's performance of this Agreement (i) will not result in a material breach or violation of, or constitute a material default under, any Authorization, or any contract, lease or other agreement or instrument to which it is a party, or by which it or its properties may be bound or affected; and (ii) does not require any Authorization, or the consent, authorization or notification of any other Person, or any other action by or with respect to any other Person, other than (A) such Authorizations, consents, authorizations, notifications, and other actions as have already been obtained, made, or taken, as applicable, and (B) such Authorizations, consents, authorizations, notifications, or other actions which are not required to have been obtained, made, or taken, as applicable, prior to the date on which this representation and warranty is made, and which are reasonably expected to be obtained, made, or taken on a timely basis and in due course.

(e) No suit, action or arbitration, or legal, administrative or other proceeding is pending or, to Seller's knowledge, has been threatened against Seller that would affect the validity or enforceability of this Agreement or the ability of Seller to perform its obligations hereunder in any material respect, or that would, if adversely determined, have a material adverse effect on the business or financial condition of Seller. There are no bankruptcy, insolvency, reorganization, receivership or other arrangement proceedings pending against or being contemplated by Seller, or, to Seller's knowledge, threatened against it.

(f) Seller is not in breach of, in default under, or in violation of, any applicable Law, or the provisions of any Authorization, or in breach of, in default under, or in violation of, any provision of any promissory note, indenture or any evidence of indebtedness or security therefor, lease, contract, or other agreement by which it is bound, except for any such breaches, defaults or violations which, individually or in the aggregate, could not reasonably be expected to have a material adverse effect on the business or financial condition of Seller or its ability to perform its obligations hereunder.

(g) Seller represents, warrants or covenants throughout the Term that:

(i) Seller has and will transfer, or will cause to be transferred to Buyer at the Project Delivery Point, good and marketable title to all Energy Output, free and clear of any lien, tax obligation, claim, security interest or any other encumbrance;

(ii) Seller has not sold or transferred any of the Energy Output to be provided to Buyer to any other Person;

(iii) The Energy Output provided to Buyer under this Agreement has not been utilized by Seller or any Person (other than Buyer or any Person to whom Buyer sells or transfers the same) to satisfy or comply with any Legal Requirement or any voluntary or involuntary renewable energy requirement or standard, including any renewable portfolio standard, renewable energy standard or any other similar standard or requirement;

(iv) The Environmental Attributes include all those products or rights relating to greenhouse gases and all green certificates, green tags, renewable certificates and RECs, in each case as specified in and required by the definition of Environmental Attributes, and they have not been used to satisfy or comply with other greenhouse gas or carbon reduction requirements, standards, obligations, or initiatives. The Energy Output

has not been sold, separately marketed or otherwise separately represented as renewable energy by any other Person;

(v) To Seller's knowledge, no Person has made any claim or statement in any form that a Person other than Buyer, or any Person to whom Buyer sells or transfers the same, owns or possesses any right, title, or interest in or to any of the Energy Output;

(vi) Except as permitted under this Agreement, neither Seller nor any of its Affiliates has made any claim or statement in any form that the Energy Output was generated from any sustainable, perpetual, renewable or other particular type of fuel, including: (A) any product content label or other disclosure regarding fuel mix; (B) any report under any emissions trading program, public or private; or (C) any report or disclosure for purposes of complying with a Legal Requirement to meet any renewable portfolio standard, renewable energy standard, or carbon reduction initiative (whether voluntary or involuntary);

(vii) No Environmental Attributes provided to Buyer under this Agreement violate any applicable rule or requirement of any certification authority (whether with respect to voluntary or involuntary certification) pertaining to double counting; and

(viii) The Project Site lease agreement is and shall remain assignable to Buyer throughout the Term and Seller shall not amend such lease without the written consent of Buyer.

(h) OTHER THAN THOSE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, SELLER MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS, IMPLIED, ORAL, WRITTEN OR OTHERWISE, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING BY CUSTOM, TRADE USAGE, PROMISE, EXAMPLE OR DESCRIPTION, ALL OF WHICH WARRANTIES ARE EXPRESSLY DISCLAIMED BY SELLER AND WAIVED BY BUYER.

ARTICLE III

CONTRACT TERM; COMMERCIAL OPERATION DATE; CONDITIONS

Section 3.1 General.

(a) The term of this Agreement shall commence on the Effective Date, and shall continue in effect until the end of the Contract Term; provided, however that except as expressly provided herein (including but not limited to Section 4.2 of this Agreement), Seller's obligation to sell and deliver Energy and Environmental Attributes and Buyer's obligation to accept and purchase Energy and Environmental Attributes shall begin on the Commercial Operation Date and shall continue during the Project Delivery Term. The expiration or termination of this Agreement shall be without prejudice to any rights or obligations of the Parties arising under this Agreement prior to such expiration or termination.

(b) Exhibit 1 sets forth the Project development milestone schedule including, among other things, the timing of the notice to proceed to be sent by Seller to its EPC contractor to begin construction on the Project. No less than 60 days prior to Seller delivering such notice to proceed, Buyer may request, and Seller shall provide to Buyer for review, design documents for the Project with respect to sizing, solar technology and anticipated net annual Energy production and capacity. Seller shall use commercially reasonable efforts to incorporate any modifications with respect to sizing, solar technology, anticipated energy production and capacity that Buyer may reasonably request; provided, however, that such modifications do not, in Seller's sole discretion, materially increase the anticipated costs under Seller's EPC contract.

Section 3.2 Scheduled Commercial Operation Date; Guaranteed Commercial Operation Date.

(a) Seller shall use commercially reasonable efforts to cause the Commercial Operation Date to occur by the Scheduled Commercial Operation Date. No later than April 30, 2021, Seller shall advise Buyer of the then-anticipated Commercial Operation Date based on the development of the Project as of such date, and Seller and Buyer shall also confer on the then-current date of Scheduled Commercial Operation (as defined herein); provided that unless the Parties agree otherwise, the definition of the Scheduled Commercial Operation Date shall not be changed. Notwithstanding anything in this Agreement to the contrary, the Commercial Operation Date may occur earlier than the Scheduled Commercial Operation Date but not earlier than April 1, 2022.

(b) In the event that the Commercial Operation Date has not occurred by the Scheduled Commercial Operation Date (as extended pursuant to the terms hereof, including by an Excused Delay), Seller shall pay to Buyer, as liquidated damages, Delay Damages for each day from and after the Scheduled Commercial Operation Date (as extended pursuant to the terms hereof, including by an Excused Delay) until the date that such remaining portion of the Project achieves Commercial Operation; provided, however, that no Delay Damages shall be payable above the amount of the Development Security. Each Party agrees and acknowledges that the damages that Buyer would incur due to Seller's delay in achieving the Commercial Operation of the Project would be difficult or impossible to predict with certainty, and that the Delay Damages as agreed to by the Parties and set forth herein are a fair and reasonable calculation of such damages. Delay Damages shall be paid on a monthly basis in accordance with Section 4.4. In no event shall the cumulative Delay Damages exceed the amount of Development Security. For the avoidance of doubt, Seller shall not be required under any circumstance to pay Delay Damages unless and until the Commercial Operation Date is not achieved by the Scheduled Commercial Operation Date (as extended pursuant to the terms hereof, including by an Excused Delay).

In the event that the Substantial Commercial Operation has not occurred by the Guaranteed Commercial Operation Date (as extended pursuant to the terms hereof, including by an Excused Delay), such failure shall be an Event of Default pursuant to Section 10.2(e), and Buyer may terminate this Agreement in its entirety in accordance with Section 10.3(a), after which Seller shall pay the Damage Payment as provided in Section 10.3(a). If an Excused Delay extends the Guaranteed Commercial Operation Date for more than one hundred eighty (180) days, then Buyer shall have the right to terminate this Agreement without further liability of either Party other than any Delay Damages owed Buyer under Section 3.2(b) and the Damage Payment owed Buyer under Section 10.3(a) (in each case, solely to the extent applicable). In such event, Buyer shall return

Seller's Development Security, less the sum of any Delay Damages plus any Damage Payment owed to Buyer, within ten (10) Business Days of such termination. In no event shall the sum of the Delay Damages and the Damage Payment exceed the amount of Development Security.

Section 3.3 Substantial Commercial Operation.

(a) For purposes of achieving the Commercial Operation Date, Seller may declare the Project to have achieved substantial commercial operation ("Substantial Commercial Operation") provided that the Rated Capacity of such Project is at least ninety percent (90%) of the pro rata portion of the Contract Capacity and all conditions to Commercial Operation for such Rated Capacity have been satisfied.

(b) In the event that Seller declares the Project to have achieved Substantial Commercial Operation: (i) Seller shall continue to pay Delay Damages in accordance with Section 3.2(b) solely with respect to any portion of the Project which has not yet achieved its Commercial Operation Date, and shall use commercially reasonable efforts to install additional Modules on the Project Site until the earlier of (A) the date on which the Rated Capacity is equal to the Contract Capacity or (B) the first anniversary of the Commercial Operation Date. As additional Modules are Commissioned, the Rated Capacity shall be increased to include the capacity of such additional Modules after written notice to Buyer that the Rated Capacity of the Project has increased. If the Rated Capacity is less than the Contract Capacity on the first anniversary of the Commercial Operation Date, then (i) Seller shall no longer be obligated to continue to install Modules, (ii) the Contract Capacity shall be deemed to be the Rated Capacity and the Net Annual Delivery Quantity shall be reduced to a level consistent with such Rated Capacity and (iii) no additional Delay Damages shall accrue after such first anniversary of the Commercial Operation Date. For the avoidance of doubt, no Delay Damages shall be payable above the amount of the Development Security.

Section 3.4 Conditions Precedent. The Parties obligations under this Agreement are subject to the fulfillment of the following conditions:

(a) Receipt of all required Governmental Approvals by the UAMPS' participants in the Red Mesa Solar PPA Project under the Buyer's Firm Power Project, which is expected to occur within ninety (90) days of the execution of this Agreement; and

(b) Agreement by PacifiCorp to add the Red Mesa Solar generation as a designated network resource to the Buyer's Transmission Service and Operating Agreement respecting the Energy Output of the Project, which is expected to occur within ninety (90) days of the execution of this Agreement.

In the event that either or both of the above conditions are not satisfied within such ninety (90) period, then the Parties shall meet and confer in good faith to adjust the milestone dates in Exhibit 1, the Scheduled Commercial Operation Date and the Guaranteed Commercial Operation Date. In the event that either or both of the above conditions are not satisfied within one hundred and eighty (180) days of the execution of this Agreement, then this Agreement shall automatically terminate and be of no force and effect (and neither Party shall have any liability to the other Party hereunder)

unless, within one hundred and ninety (190) days of the execution of this Agreement, Buyer agrees in writing to waive the unsatisfied condition(s).

ARTICLE IV

PURCHASE AND SALE

Section 4.1 Generally.

(a) Purchase and Sale. Following the Commercial Operation Date and continuing throughout the Contract Term, Seller shall sell and deliver, or cause Seller's Affiliate to sell and deliver, to Buyer, and Buyer shall purchase and accept from Seller (or Seller's Affiliate, as applicable), the Energy Output of the Project delivered to the Project Delivery Point. Seller shall not sell any such Energy Output to any third party except as expressly permitted by this Agreement.

(b) Lost Production. In any month in which there is Lost Production, Buyer shall pay Seller an amount equal to the product of the Contract Price and the amount of Lost Production.

(c) Contract Price. The Contract Price during the Contract Term for Energy Output, and for the payment by Buyer to Seller for any Lost Production shall be \$23.15/MWH with an annual 2% escalator during the Term.

(d) RECs. Notwithstanding the foregoing or anything to the contrary in this Agreement, Seller shall not be obligated to cause the Project to qualify for any RPS Program (or obtain or take any other action with respect to RECs pursuant to such RPS Program or otherwise with respect to such RPS Program) (i) unless (A) such Project is eligible for such RPS Program and (B) Buyer has given Seller a written notice specifically identifying such RPS Program and requesting Seller to assist in qualifying such Project for such RPS Program, setting up accounts and certifying and transferring ownership of RECs to such accounts through the WREGIS system and registration with the Green-E program (all of which shall be accomplished at Seller's cost) or (ii) if Buyer has given Seller a written notice specifically identifying such RPS Program and notifying Seller that Seller is not required to qualify for and obtain RECs pursuant to such RPS Program. In addition, notwithstanding the foregoing or anything to the contrary in this Agreement, Seller shall not, at any point in time, be obligated to obtain RECs from more than one REC administrator or in more than one REC Trading Account, unless permitted by (and capable of being implemented pursuant to) the applicable RPS Programs and applicable Law, and, if Buyer requires Seller to qualify the Project for RPS Programs that encompass more than one REC administrator or more than one REC Trading Account, Buyer shall notify Seller in writing (sufficiently in advance so as to allow Seller a reasonable amount of time to effectuate the same) of the desired allocation (which must be permissible under, and capable of being implemented pursuant to, the applicable RPS Programs and applicable Law), at each point in time, of the RECs among such RPS Programs. If Buyer desires that Seller cease its qualification in any RPS Program, then Buyer shall provide Seller with a written notice specifically identifying such RPS Program and requesting Seller to cease qualification in such RPS Program and Seller shall (at Buyer's expense) take the necessary actions to cease the qualification that is identified in such request from Buyer (and any re-qualification requested by Buyer shall be at Buyer's expense).

Section 4.2 Test Energy. Buyer shall purchase and pay for the Energy Output generated by the Project on and after the start of testing conducted prior to Commercial Operation at sixty-five percent (65%) of the Contract Price, provided that Seller cooperates with Buyer in reasonably coordinating the delivery of such Energy Output and that Seller shall be responsible for scheduling, energy imbalance market and any charges associated therewith. Upon the Commercial Operation Date, the price paid for Energy Output shall be determined in accordance with Section 4.1.

Section 4.3 Billing. Seller shall read the Delivery Meters located at the Project Delivery Point promptly following the end of each month. The amount of Energy delivered to Buyer during the preceding month shall be determined from such readings. Seller shall also determine the amount of Lost Production during the preceding month.

(a) Bills for amounts due hereunder shall be rendered by Seller as soon as practicable following the meter reading, and shall incorporate such information as may reasonably be necessary or desirable to determine the payments for Energy Output delivered, and for Lost Production during the preceding month, and other amounts due hereunder, including indemnification payments.

(b) In the event that Seller owes any amount to Buyer pursuant to this Agreement, Buyer shall send Seller a statement of the amount then due in accordance with the procedures set forth above.

Section 4.4 Payment and Interest.

(a) Payment.

(i) All payments shown to be due on a bill shall be due and payable not later than twenty (20) days after receipt (the "Due Date").

(ii) If the paying Party, in good faith, disputes a portion of any bill, the paying Party shall render payment for the undisputed portion of such bill to the billing Party. Upon resolution of the Dispute, any amount found to be due and payable to the billing Party shall be paid to the billing Party in accordance with Section 4.4(b)(ii).

(iii) The paying Party shall render payment by electronic payment (ACH or wire transfer), or such other payment method as the Parties mutually agreed upon.

(b) Interest.

(i) If the paying Party fails to pay all or a portion of the undisputed amounts billed within the time stated in Section 4.4(a), the paying Party shall owe interest on the unpaid portion of the bill, which interest shall accrue daily at the Late Payment Rate, from the Due Date until paid.

(ii) If any portion of a disputed amount is ultimately determined to be due to the billing Party, such amount shall be due and payable not later than ten (10) Business Days after resolution of the Dispute, and the paying Party shall owe interest on such portion of such disputed amount to the extent that such portion is determined to be due

and owing to the billing Party, which interest shall accrue daily at the Late Payment Rate, from the original Due Date of such amount until such amount is paid.

(c) Set-off. Either Party shall be permitted to deduct from any payments due from such Party under this Agreement any amounts which the other Party owes for actions performed under the terms of this Agreement.

ARTICLE V

DELIVERY OF ENERGY

Section 5.1 Delivery of Energy.

(a) Characteristics. Energy to be furnished hereunder shall be in the form of three- phase, sixty (60) Hertz alternating current or as specified under the respective Project Interconnection Agreements.

(b) Delivery Point. All Energy Output sold by Seller to Buyer under this Agreement shall be delivered by Seller to the point of interconnection specified in the Project Interconnection Agreement, which is identified as McCracken 69kv substation of the Transmission Provider (the “Project Delivery Point”) and which will have a revenue quality Delivery Meter. All Energy Output shall be delivered by Seller to the Project Delivery Point free and clear of all liens, claims and encumbrances.

(c) Title and Risk of Loss. Title to Energy Output, and risk of loss with respect thereto, shall pass from Seller to Buyer at the Project Delivery Point, free and clear of any encumbrances.

Section 5.2 Communications and Data Logging Systems. Seller shall provide Buyer (at Seller’s cost) with real-time secure electronic access to Seller’s web-based monitoring application, as well as appropriate telephonic/electronic communication to allow Buyer to remotely read the Delivery Meter(s). Seller shall also grant Buyer access to the Project, upon reasonable advance notice and during normal business hours, as may be necessary and appropriate to enable Buyer to access any and all data related to the production of Energy at the Project. While at the Project, Buyer shall observe such safety and cybersecurity precautions as may be reasonably required by Seller and communicated to Buyer in writing.

Section 5.3 Delivery Metering. Seller shall ensure that revenue quality meters are installed at the Project Delivery Point (with respect to each Project, the “Delivery Meter(s)”) in accordance with the requirements of the Project Interconnection Agreement at no cost to Buyer. The metering instrument transformer, which measures the output of the Project, shall be located on the high side of the step-up transformers for the Project. In addition, Seller, at its own expense, shall install metering equipment (“Seller Metering Equipment”) at the Project that monitors, records, and transmits data relating to, all Energy Output delivered to the Delivery Meter(s), provided that such Seller Metering Equipment does not interfere with any Delivery Meter(s). In the event that a Delivery Meter(s) inaccurately register during any period of time, the amount of Energy Output delivered during such period shall be determined in accordance with the procedures set forth in Exhibit 9.

Section 5.4 Meter Maintenance and Records.

(a) Maintenance of Metering Equipment. The Delivery Meter(s) and the Seller Metering Equipment shall be tested and maintained in accordance with Good Utility Practice and the Project Interconnection Agreement but no less frequently than once per year. Buyer shall be given at least ten (10) Business Days advance written notice of such testing and shall be permitted to have a representative witness all such testing for all meters under the control of the Interconnection Provider.

(b) Records. Seller shall maintain, and make available to Buyer for inspection, verification and copying, at the Buyer's expense, all records it is required to keep and maintain in accordance with the Project Interconnection Agreement, and applicable Law with respect to the testing and maintenance of the Delivery Meter(s) under the control of the Interconnection Provider, subject to return within ten (10) Business Days after receipt thereof.

Section 5.5 Interconnection Arrangements.

(a) Seller shall enter into, or cause Seller's Affiliate(s), as applicable, to enter into, one or more Project Interconnection Agreements providing for the right to interconnect the Project with the Interconnection Provider's system at the Project Delivery Point and to deliver the entire Contract Capacity to the System for the entire Project Delivery Term. Seller shall comply (and shall cause Seller's Affiliate, as applicable, to comply) with all applicable requirements of the Project Interconnection Agreement and applicable Law. Seller shall be responsible for any electrical losses between the Project and the Project Delivery Point.

(b) The provisions of Sections 5.3 through 5.7 are subject to the applicable requirements of the Project Interconnection Agreement and any Governmental Authority having jurisdiction over the respective Delivery Meters. If and to the extent any of the provisions of Sections 5.3 through 5.7 are inconsistent with such requirements, such requirements shall take precedence.

Section 5.6 Procedures.

(a) Expected Commercial Operation Date. Throughout construction, start-up, and testing, Seller shall keep Buyer informed of any changes to the expected Commercial Operation Date.

(b) Start-Up. Not less than one (1) month prior to the projected Commissioning of the first Module at the Project, Seller shall provide to Buyer a projected schedule for the start-up and testing of the Project. Promptly after delivery of such schedule, Seller and Buyer shall use commercially reasonable efforts to have their respective Designated Representatives meet in person or telephonically to discuss start-up, testing and commercial operation of the Project.

(c) Notice of Commercial Operation Date. As soon as practicable after completion of start-up and successful testing of the Project (in compliance with the Project Interconnection Agreement and any applicable Law or Authorization, and any applicable requirement of any Governmental Authority), Seller shall provide Buyer a notice specifying when the Commercial Operation Date occurred. Buyer shall, within five (5) Business Days of receipt of

such notice, provide in writing (including via email) either any comments or its confirmation of the occurrence of the Commercial Operation Date.

(d) Operating Procedures. No later than sixty (60) Days prior to the projected Commercial Operation Date, Seller and Buyer will mutually develop written operating procedures to accommodate the specifications of the Project as constructed by Seller, and to coordinate the respective obligations of the Parties regarding day-to-day operations of the Project. Such operating procedures may address: (i) deliveries of Energy Output during start-up and testing of the Project; (ii) the method of day-to-day communications; (iii) scheduling protocols and practices; (iv) hourly energy forecasting; (v) daily energy reports; (vi) Project operations log; (vii) reactive power output; (viii) technical limitations of Project operation; (ix) coordination of maintenance scheduling; (x) designation of Confidential Information; (xi) the procedure for substantiating the transfer of Environmental Attributes under this Agreement; (xii) the verification of information with respect to the production of Environmental Attributes transferred to Buyer hereunder for purposes of certification; and (xiii) such other matters that the Parties agree are appropriate. In the event of inconsistency or conflict between such operating procedures and specific terms of this Agreement, the specific terms of this Agreement will control.

Section 5.7 Scheduling Coordinator.

(a) Buyer shall act as the Scheduling Coordinator for the Project and shall be solely and fully (1) responsible for payment of all fees, charges, assessments and penalties, and (2) entitled to all revenues, in each case associated with Buyer's scheduling of the Project's Energy Output. Seller will provide to Buyer by 8:00 a.m. EPT on the day before the expected hourly generation at the Project Delivery Point. Any known changes to the preschedule, as it becomes available to Seller using commercially reasonable efforts, will be communicated to the Buyer to assist Buyer in its capacity as the Scheduling Coordinator in scheduling Energy Output sold to Buyer hereunder. Seller shall install and test such facilities, communications links and other equipment and implement such protocols and practices and thereafter maintain such facilities communications links and other equipment, as are necessary in Seller's commercially reasonable judgment (a) for Seller to respond to and follow instructions including an electronic signal conveying real time instructions to operate the Project as directed by Buyer in its capacity as Scheduling Coordinator and/or by the Market Operator and (b) for Buyer in its capacity as Scheduling Coordinator and/or for the Market Operator to control the quantity of Energy Output generated by the Project in order to respond to Economic Curtailments and Curtailments, as applicable.

(b) Market Changes. In the event that, at any time during the Term, there are material changes to any Market rules, policies or regulations applicable to Buyer, Seller, the Project, or all or any portion of the Energy Output, including, without limitation, if (i) Buyer or the Project participates in a Market, or (ii) the Project, or delivery or scheduling of any portion, or all, of the Energy Output from the Project to Buyer at the Project Delivery Point becomes subject to any electric tariff or other rules or protocols of an RTO, then the Parties shall enter into good-faith negotiations, the purpose of which is to address necessary changes in this Agreement while giving reasonable effect to the intent of the Parties in entering into this Agreement, and preserving the balance of the economics and equities contemplated by this Agreement in all material respects (including compensation, risk allocation, and implementation costs). If after negotiating for a period of no less than 180 days, the Parties are unable to reach agreement on the necessary changes,

either Party may seek a resolution pursuant to the dispute resolution procedures provided by Section 10.6.

ARTICLE VI

RIGHTS AND OBLIGATIONS

Section 6.1 Rights and Obligations of Seller.

(a) Design, Construction and Operation. Seller shall be solely responsible (at its sole cost) to design, permit, construct, operate, maintain and decommission the Project, or cause the Project to be designed, permitted, constructed, operated, maintained and decommissioned, in accordance with Good Utility Practice. The key design characteristics of the Project are set forth in Exhibit 1. Seller shall not materially modify such design characteristics without the prior written approval of the Buyer unless otherwise expressly permitted by this Agreement.

(b) ITCs and Tax Items. Buyer's purchase of Energy and Environmental Attributes does not include the right to Tax Benefits, which shall be retained by Seller. Seller shall be entitled to the benefit of any ITCs and other tax deductions, credits and incentives related to the Project.

(c) Laws and Authorizations. Seller shall be solely responsible (at its sole cost) to comply, in all material respects, with all applicable Laws and with all Authorizations required for the construction, operation and maintenance of the Project.

(d) Notice of Change in Delivery. Seller shall use its commercially reasonable efforts to give advance notice to Buyer in the event of either an interruption in the delivery of Energy or a significant variation in the quantity of Energy delivered by the Project (other than interruptions or variations due to changes in levels of Insolation), whether or not caused by Force Majeure.

(e) Access to Projects. Seller shall allow properly accredited representatives of Buyer to have reasonable access to the Project, upon advance notice and during normal business hours, to observe construction, operation and maintenance of the Project, and to make inspections and obtain information required in connection with this Agreement. While at the Project, such representatives shall observe such safety and cybersecurity precautions as may be required by Seller and communicated to Buyer in writing and shall conduct themselves in a manner that will not interfere with the construction, ownership or leasing, operation or maintenance of the Project.

(f) Designated Representative. Seller and Buyer shall designate one or more representatives (each a "Designated Representative") to maintain communications with the other Party's Designated Representative(s), and to facilitate coordination between Buyer and Seller during the Contract Term. Seller's and Buyer's initial Designated Representative(s) are set forth in Exhibit 3.

(g) Information and Data. Subject to Section 12.7, Seller shall supply any information or data reasonably required by Buyer to comply with the requirements of any applicable Law or Authorization, or the requirements of any Governmental Authority provided, however, that Seller shall not be required to incur any expense pursuant to this provision unless Buyer agrees to reimburse Seller for such expense. Seller shall provide Buyer with any other

information or data related to the operation or maintenance of the Project reasonably requested by Buyer in order to verify amounts due hereunder and verify compliance with the terms and conditions of this Agreement.

(h) Progress Reports. Within thirty (30) calendar days after the end of each calendar quarter beginning on the first such date to occur following six months after the Effective Date and through the Commercial Operation Date, Seller shall provide Buyer with a reasonably detailed written report on the progress of the development of the Project during the preceding calendar quarter. Seller shall be available to meet with Buyer at Seller's offices as is reasonably requested by Buyer, to provide additional information or clarification of the written report on the progress of the development of the Project.

(i) The Parties will coordinate on the scheduling of planned outages of the Project in order to schedule outages as reasonably practicable to minimize Project unavailability and maximize Project performance.

Section 6.2 Net Delivery Guarantees.

(a) Beginning with the second Measurement Period, after the end of each Measurement Period: (i) if the Net Annual Delivery Guarantee for the last two (2) consecutive Measurement Periods exceeds the sum of the actual Energy production and the Deemed Generation for such Measurement Periods, then the amount of such excess shall be the "Annual Quantity Shortfall" for such Measurement Periods. In the event that the final Measurement Period is less than twelve (12) full months, the Net Annual Delivery Guarantee for the last two (2) Measurement Periods shall be prorated based on the number of days in such last two (2) Measurement Periods, with appropriate adjustments for monthly variations in the level of Insolation at the Project Site.

(b) If there is an Annual Quantity Shortfall for any two (2) consecutive Measurement Periods then Seller shall pay to Buyer as liquidated damages an amount equal to the product of (A) the Annual Quantity Shortfall for such period, as applicable, in MWh, multiplied by (B) the Energy Output Replacement Cost.

(c) Beginning with the second Measurement Period, no later than thirty (30) days after the end of each Measurement Period Seller shall deliver to Buyer Seller's computation, in reasonable detail, of the sum of the actual Energy production and the Deemed Generation for the last two (2) consecutive Measurement Periods. Within thirty (30) days after receipt of Seller's computation, Buyer shall deliver to Seller an invoice showing in reasonable detail Buyer's computation of any amount due Buyer for liquidated damages pursuant to Section 6.2(b) based on Seller's computation of the Annual Quantity Shortfall. Seller shall pay to Buyer, by electronic payment (ACH or wire transfer) of immediately available funds to an account specified in writing by Buyer or by any other means agreed to by the Parties in writing from time to time, the amount set forth as due in such invoice within thirty (30) days after receipt of such invoice. Seller shall within sixty (60) days after receiving an invoice under this Section 6.2(c) raise any objections regarding any disputed portion of the invoice. All disputes regarding such invoices shall be subject to Section 10.6. Objections not made by Seller within the sixty (60) day period shall be deemed waived.

(d) An example calculation of the Net Annual Delivery Guarantee and liquidated damages is included in Exhibit 2. Each Party agrees and acknowledges that (i) the damages that Buyer would incur in the event of an Annual Quantity Shortfall or during any Measurement Period would be difficult or impossible to predict with certainty and (ii) the liquidated damages contemplated by this Section are a fair and reasonable calculation of such damages.

ARTICLE VII

SALE, TRANSFER OR ASSIGNMENT

Section 7.1 Generally.

(a) Except as provided in Section 7.2, this Agreement may not be assigned, in whole or in part, by either Party without (i) the prior written consent of the other Party, and (ii) the written agreement of the assignee whereby such assignee expressly assumes and agrees to perform each and every obligation of the assignor under this Agreement. Any assignment in violation hereof shall be null and void.

(b) Notwithstanding Section 7.1(a), (i) either Party may assign this Agreement to an Affiliate (including any direct or indirect sale or transfer of all or substantially all of the equity interest held by Seller Parent Company in Seller to an Affiliate of Seller Parent Company) without the consent of the other Party, provided that the credit quality or tangible net worth of the assignee (or its direct or indirect parent company guarantor, if any) is equal to or better than the credit quality and tangible net worth of the assignor as of the Effective Date; (ii) Seller may assign this Agreement to any purchaser or transferee of all or substantially all of its assets, and Seller's Parent Company (or any intermediate entity) may sell or transfer all or substantially all of the equity interest held by Seller Parent Company (or such intermediate entity) in Seller (directly or indirectly), in each case without the consent of Buyer, provided that in the case of this clause (ii), (A) the credit quality of the assignee or transferee is equal to or better than the credit quality of the assignor or transferor as of the Effective Date; (B) the assignee or transferee has at least two (2) years' experience operating facilities similar to the Project or has contracted with an operations and maintenance provider having such experience; and (C) in the case of an assignment of this Agreement by Seller, the assignee or transferee expressly assumes and agrees to perform (or guarantees performance by Seller of) each and every obligation of Seller under this Agreement; and (iii) Buyer may assign this Agreement to any purchaser or transferee of all or substantially all of its assets without the consent of Seller, provided that (X) the assignee expressly assumes and agrees to perform each and every obligation of Buyer under this Agreement, and (Y) the credit quality of the assignee or transferee is equal to or better than the credit quality of the assignor or transferor as of the Effective Date, or the obligations of the assignee are guaranteed by a guarantor whose credit quality is equal to or better than the credit quality of the assignor or transferor as of the Effective Date, pursuant to a guarantee agreement that is acceptable in form and substance to Seller. The assigning Party shall notify the other Party of the occurrence of any event described in this Section 7.1(b).

(c) (i) Notwithstanding any other provision of this Agreement, Buyer may, without Seller's consent, assign, transfer, mortgage or pledge its interest in this Agreement as security (an "Assignment for Security") for any obligation secured by an indenture, mortgage or

similar lien on Buyer's system assets without limitation on the right of Buyer's assignee, transferee, mortgagee or pledgee (the "Other Secured Party") to further assign this Agreement, including a collateral assignment as security for the benefit of the United States Government, acting through the Administrator, or for the benefit of any third party that may be directly or indirectly liable for any such secured obligation; provided that any such assignment in accordance with this Section 7.1(c)(i) shall not alter or affect Buyer's obligations hereunder.

(ii) After any Assignment for Security to the Other Secured Party (including any indenture trustee under any indenture securing the obligations of Buyer), the Other Secured Party, without the approval of Seller, may (A) cause the interest in this Agreement of Buyer to be sold, assigned, transferred or otherwise disposed of to a third party pursuant to the terms governing such Assignment for Security, in any such case in accordance with Section 7.1(b), or (B) if the Other Secured Party first acquires this Agreement, sell, assign, transfer or otherwise dispose of this Agreement to a third party, in any such case in accordance with Section 7.1(b); provided, however, that in either case Buyer is in default of its obligations to the Other Secured Party that are secured by such security interest.

Section 7.2 Finance Assignments. Seller shall have the right to collaterally assign this Agreement to any Lender or any Lender's agent, without the consent of Buyer, in connection with the financing of the construction and operation of the Project, regardless of whether such financing is provided to Seller by such Lender directly or indirectly through one or more intermediaries or agents (each such assignee being referred to herein as a "Collateral Assignee"); provided, however, that no such assignment shall be effective for purposes of this Section until Seller shall have notified Buyer of such assignment, which notice shall include the name and address of the Collateral Assignee. Upon the reasonable request of Seller, Buyer agrees to (x) enter into a consent to collateral assignment with Seller and Seller's Collateral Assignee substantially in the form attached hereto as Exhibit 4 and (y) provide a customary estoppel certificate to Seller and Seller's Collateral Assignee (including any tax equity investor(s)) substantially in the form attached hereto as Exhibit 5. Buyer shall execute such modifications to this Agreement as Seller, on behalf of a Seller Collateral Assignee (including any tax equity investor(s)) may reasonably request in connection with entering into a consent to collateral assignment or an estoppel certificate, provided that no such modification shall increase the payment or other obligations of Buyer under this Agreement or otherwise materially adversely affect Buyer. So long as any assignment of which Buyer has been notified, or any consolidation, modification or extension of any such assignment, shall remain outstanding, the following provisions shall apply:

(a) Buyer shall, upon serving upon Seller any notice pursuant to this Agreement, also serve a copy of such notice upon each Collateral Assignee at the address provided for in the notice referred to above. No notice issued by Buyer pursuant to this Agreement shall be deemed to have been duly given unless and until a copy thereof shall have been so served.

(b) A transfer of (i) this Agreement or (ii) any direct or indirect ownership interests in Seller, in each case to any Collateral Assignee or its designee (whether by foreclosure, voluntary transfer or a transfer in lieu of foreclosure), shall not constitute an assignment or change of control requiring the consent of Buyer under this Agreement; provided, however, that such Collateral Assignee or its designee shall be deemed to have assumed, and shall be obligated to

perform, the obligations of Seller hereunder in each case in accordance with the terms of any collateral assignment or consent to collateral assignment entered into by such Collateral Assignee.

Section 7.3 Delegation of Duties. Seller may delegate performance of any of its operation and maintenance duties pursuant to Section 6.1(a) and Section 5.4 to an Associated Party of Seller or of Seller's Affiliate, but no such delegation of duties shall relieve Seller from liability for the non-performance of any such obligations, and any action or inaction by any such Associated Party in the performance of such duties shall be deemed to be the action or inaction of Seller. Any operations and maintenance provider that Seller retains, as well the applicable operations and maintenance agreement, shall be subject to the approval of Buyer, which approval shall not be unreasonably withheld.

Section 7.4 Right of First Offer. At least one hundred and twenty (120) Days prior to the anticipated close of any Seller (or any of its Affiliate's) transaction proposing the transfer of the Project or the equity interests in Seller to a third party, not including any Lender, including tax equity transaction or affiliate of Seller, Seller shall submit a written offer ("Offer") to Buyer, including a purchase price and a proposed purchase and sale agreement, to sell and transfer the Project or the equity interests in Seller, as the case may be, to Buyer. Such Offer shall remain open to Buyer for acceptance for thirty (30) Days after delivery of the Offer, and if Buyer accepts such Offer within such thirty (30) Day period, then the Parties will promptly execute the purchase and sale agreement and proceed to close such purchase and sale, at which closing this Agreement shall terminate and be of no further force and effect, and neither Party shall have any liability to the other Party under this Agreement except for such liability that arose prior to such termination. If Buyer fails to accept such Offer within such thirty (30)-Day period, then, subject to Section 7.1, Seller shall be permitted to transfer the Project or the equity interests in Seller, as the case may be, to a third party, provided that the terms and conditions of such sale to such third party shall be no less favorable to Seller than the Offer. If Seller does not close such sale to such third party within one hundred and eighty (180) Days following the date the Offer was submitted to Buyer, then Seller must re-offer the sale of the Project or the equity interests in Seller, as the case may be, to Buyer and the foregoing provisions of this Section 7.4 shall be repeated.

Section 7.5 Early Purchase Option. Buyer shall have the options set forth in Exhibit 8 to purchase the Project from Seller.

ARTICLE VIII **FORCE MAJEURE**

Section 8.1 Force Majeure Defined. "Force Majeure" shall mean an event or circumstance beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure which delays or prevents such Party's performance of its obligations under this Agreement, which delay cannot be mitigated by the exercise of due diligence. It shall include the following (to the extent beyond the reasonable control of and without the fault or negligence of the Party claiming Force Majeure): failure or interruption of development, construction, operation and/or maintenance of the Project, or the production, delivery or acceptance of Energy due to an act of God; war (declared or undeclared); sabotage; riot; insurrection; civil unrest or disturbance; military or guerilla action; banditry; terrorist activity or a threat of terrorist activity which, under the circumstances, would be considered a precursor to actual terrorist activity; economic sanction

or embargo; a national or regional civil strike, work stoppage, slow-down, or lock-out; explosion; fire; earthquake or seaquake; abnormally severe weather conditions; hurricane; flood; peril of the sea; the binding order of any Governmental Authority (provided that such order has been resisted in good faith by all reasonable legal means) that prohibits the construction or operation of the Project; a failure of any Project transformer not resulting from the failure by Seller to maintain the transformer according to Good Utility Practice; and the failure to act, or delay in acting, on the part of any Governmental Authority (provided that such action has been timely requested and diligently pursued). With respect to Seller, Force Majeure shall also include (to the extent beyond the reasonable control of and without the fault or negligence of Seller) any interruption or delay in interconnection, transmission or distribution service. Notwithstanding anything in the foregoing to the contrary, Force Majeure shall not include: (i) any difficulty in obtaining or maintaining sufficient, or appropriately skilled, personnel to construct, operate and maintain any Project in accordance with this Agreement, (ii) normal wear and tear and obsolescence of equipment, (iii) unanticipated failure of equipment, including a failure of equipment that results in a Forced Outage, unless such failure of equipment is directly caused by an event of Force Majeure, (iv) the ability of Seller to sell the Energy Output (or any component thereof) at a more advantageous price, (v) the loss by Seller of any contractual arrangement, (vi) the imposition of any Taxes allocated to Seller hereunder or any failure of Seller or any Tax Investor to obtain or qualify for any Tax Benefits, (vii) any delay by or failure of Seller to obtain or perform any permit issued by a Governmental Authority, or any contractual arrangement between Seller and any third party (including any agent or subcontractor of Seller), unless such delay or failure is directly caused by an event of Force Majeure, (viii) Seller's failure to obtain or perform (including a failure to perform by a Seller Affiliate party to a Project Interconnection Agreement) any Project Interconnection Agreement, (ix) civil strike, work stoppage, slow-down, or lock-out that is limited to the Project, (x) any weather condition that does not exceed the severity of weather experienced within the 25-year weather history for the location in question, (xi) any change in Law, (xii) Seller's loss of or inability to obtain Tax Benefits, (xiii) lack of sunshine, and (xiv) economic hardship, including the lack of money or changes in market conditions, including any increased cost of labor, equipment, materials or transportation.

Section 8.2 Effect of Force Majeure. If either Party is rendered wholly or partly unable to perform its obligations under this Agreement or its performance is delayed because of Force Majeure, that Party shall be excused from whatever performance it is unable to perform or delayed in performing due to the Force Majeure to the extent so affected, provided that:

(a) The Party affected by such Force Majeure, as soon as reasonably practical after the commencement of such affect, gives the other Party prompt oral notice, followed by a written notice within forty-eight (48) hours after learning of such Force Majeure event, fully describing the particulars of the occurrence; provided that failure to provide notice in accordance with this clause (a) shall not affect the ability of a Party to claim Force Majeure with respect to any period after such notice is actually provided;

(b) Such event, despite the exercise of reasonable diligence, cannot be or be caused to be prevented, avoided or removed by such Party;

(c) The suspension of performance is of no greater scope and of no longer duration than is required by the Force Majeure event;

(d) The Party whose performance is affected by such Force Majeure uses commercially reasonable efforts to overcome and remedy its inability to perform as soon as possible; and

(e) If such event of Force Majeure persists for a continuous period of one hundred and eighty (180) days, then the Party not claiming Force Majeure shall have the right, in its discretion, to terminate this Agreement by giving not less than ten (10) days' notice to the other Party, in which case neither Party will have any liability to the other Party or recourse against the other Party, other than for liability arising prior to termination.

Notwithstanding the claimed existence of a Force Majeure event or any other provisions of this Agreement, nothing herein shall relieve any Party from exercising any right or remedy provided under this Agreement with respect to any liability or obligation of the other Party that is not excused or suspended by the Force Majeure event, including the right to terminate this Agreement for any Event of Default not excused by the Force Majeure event. Nothing herein shall be construed so as to obligate any Party to settle any strike, work stoppage or other labor dispute or disturbance or to make significant capital expenditures, except in the sole discretion of the Party experiencing such difficulty.

Section 8.3 Payment Obligations Not Excused. Notwithstanding anything in this Article VIII to the contrary, no payment obligation arising under this Agreement shall be excused by an event of Force Majeure.

Section 8.4 Deadlines Extended. Whenever either Party is required to commence or complete any action within a specified period, such period shall be extended by an amount equal to the duration of any event of Force Majeure affecting such action and occurring or continuing during such period except as otherwise specifically provided in this Agreement; provided, however, that in no event shall a Force Majeure extend the Contract Term.

Section 8.5 Sales to Third Parties in Buyer Force Majeure. Notwithstanding anything to the contrary in this Agreement, Seller may sell Energy and Environmental Attributes to other Persons if and to the extent Buyer is the Party whose performance is affected by an event of Force Majeure.

ARTICLE IX **INDEMNIFICATION**

Section 9.1 Indemnification.

(a) By Seller. Seller shall defend, indemnify and hold harmless Buyer and Buyer's Associated Parties against and from any Indemnifiable Cost arising out of any injury, bodily or otherwise, to, or death of, persons, or for damage to, or destruction of, property belonging to or leased by Buyer, Seller, or others (each a "Claim"), resulting from or attributable to breach of this Agreement by, or the negligence or willful misconduct of, Seller or any of Seller's Associated Parties, (ii) resulting from or attributable to the breach of any of Seller's representations or warranties contained herein, or (iii) resulting from, arising out of, or in any way connected with the performance of, or failure to perform, Seller's obligations under this Agreement or the construction, ownership or leasing, operation or maintenance of the Project, including the delivery of Energy to the Project Delivery Point, excepting, in each case, any Indemnifiable Cost to the

extent it is caused by the breach of this Agreement by, or negligence or willful misconduct of, Buyer or Buyer's Associated Parties.

(b) By Buyer. Buyer shall defend, indemnify and hold harmless Seller and Seller's Associated Parties against and from any Indemnifiable Cost arising out of any Claim (i) resulting from or attributable to the breach of this Agreement by, or negligence or willful misconduct of, Buyer or any of Buyer's Associated Parties, (ii) resulting from or attributable to the breach of any of Buyer's representations or warranties contained herein, or (iii) resulting from, arising out of, or in any way connected with the performance of, or failure to perform, Buyer's obligations under this Agreement excepting, in each case, any Indemnifiable Cost to the extent it is caused by the breach of this Agreement by, or negligence or willful misconduct of, Seller or Seller's Associated Parties.

(c) By Buyer and Seller. If, due to the joint, concurring, comparative or contributory breach of this Agreement by, or negligence or willful misconduct, of the Parties or their respective Associated Parties, either Party incurs any Indemnifiable Cost arising out of any Claim, such Indemnifiable Cost shall be allocated between Seller and Buyer in proportion to their and their respective Associated Parties' respective degrees of fault, negligence or willful misconduct contributing to such Claim.

(d) Employees. Neither Party nor such Party's Associated Parties shall be deemed an employee of the other Party. Neither Party shall bring any claim against the other Party or any of such Party's Associated Parties with respect to any liability for compensation under any applicable state or federal Worker's Compensation Act, including Worker's Compensation and/or employer's liability claims of employees. Each Party shall be liable for all claims of the Party's own employees arising out of any provision of any Workers' Compensation Law.

(e) Interconnection Arrangements. Seller acknowledges and agrees that the Project Interconnection Agreement is and will be a separate agreement and will exclusively govern all requirements and obligations among Seller or Seller's Affiliate, as applicable, and the parties thereto with respect to interconnection of the Project with the Interconnection Provider's system. As between Buyer and Seller, Seller shall be solely responsible for, and shall defend, indemnify and hold harmless Buyer and Buyer's Associated Parties from and against, any Indemnifiable Costs for which Seller or Seller's Affiliate is responsible under the Project Interconnection Agreement.

(f) Notice and Participation.

(i) If any Party entitled to indemnification hereunder (the "Indemnified Party") intends to seek indemnification under this Article from the other Party (the "Indemnifying Party") with respect to any Claim, the Indemnified Party shall give the Indemnifying Party notice of such Claim upon the receipt of actual knowledge or information by the Indemnified Party of any possible Claim or of the commencement of such Claim, which notice shall in no event be later than the later of (i) fifteen (15) Business Days prior to the last day for responding to such Claim or (ii) one-half of the period allowed for responding to such Claim. The Indemnifying Party shall have no liability under this Article for any Claim for which such notice is not provided, but only to the extent that the

failure to give such notice materially impairs the ability of the Indemnifying Party to respond to or to defend the Claim.

(ii) The Indemnifying Party shall have the right to assume the defense of any Claim, at its sole cost and expense, with counsel designated by the Indemnifying Party and reasonably satisfactory to the Indemnified Party; provided, however, that if the defendants in any such proceeding include both the Indemnified Party and the Indemnifying Party, and the Indemnified Party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to those available to the Indemnifying Party, the Indemnified Party shall have the right to select separate counsel, at the Indemnifying Party's expense, to assert such legal defenses and to otherwise participate in the defense of such Claim on behalf of such Indemnified Party, and the Indemnifying Party shall be responsible for the reasonable fees and expenses of such separate counsel.

(iii) Should any Indemnified Party be entitled to indemnification under this Section as a result of a Claim by a third party, and should the Indemnifying Party fail to assume the defense of such Claim within a reasonable period of time, the Indemnified Party may, at the expense of the Indemnifying Party, contest (or, with or without the prior consent of the Indemnifying Party), settle such Claim.

(iv) Except to the extent expressly provided herein, no Indemnified Party shall settle any Claim with respect to which it has sought or is entitled to seek indemnification pursuant to this Section unless (i) it has obtained the prior written consent of the Indemnifying Party, or (ii) the Indemnifying Party has failed to provide, within a reasonable period of time, security, in a form reasonably satisfactory to the Indemnified Party, securing the payment of any Indemnifiable Cost, up to the amount of the proposed settlement.

(v) Except to the extent expressly provided otherwise herein, no Indemnifying Party shall settle any Claim with respect to which it may be liable to provide indemnification pursuant to this Section without the prior written consent of the Indemnified Party, provided, however, that if the Indemnifying Party has reached a bona fide settlement agreement with the plaintiff(s) in any such proceeding, which settlement includes a full release of the Indemnified Party for any and all liability with respect to such Claim, and the Indemnified Party does not consent to such settlement agreement, then the dollar amount specified in the settlement agreement, plus the Indemnified Party's reasonable out-of-pocket legal fees and other costs related to the defense of the Claim paid or incurred prior to the date of such settlement agreement, shall act as an absolute maximum limit on the indemnification obligation of the Indemnifying Party with respect to the Claim, or portion thereof, that is the subject of such settlement agreement.

(g) Net Amount. In the event that an Indemnifying Party is obligated to indemnify and hold any Indemnified Party harmless under this Article, the amount owing to the Indemnified Party shall be the amount of such Indemnified Party's actual Indemnifiable Cost, net of any insurance or other recovery actually received by the Indemnified Party.

(h) Assertion of Claims. No Claim of any kind shall be asserted against either Party or such Party's Associated Parties, whether arising out of contract, tort (including negligence), strict liability, or any other cause of or form of action, unless it is filed in a court of competent jurisdiction, or a demand for arbitration is made, within the applicable statute of limitations period for such Claim.

(i) No Release of Insurers. The provisions of this Article shall not be deemed or construed to release any insurer from its obligation to pay any insurance proceeds in accordance with the terms and conditions of valid and collectible insurance policies.

(j) Survival of Obligation. The duty to indemnify under this Article shall continue in full force and effect for the applicable statute of limitations period notwithstanding the expiration or termination of this Agreement, with respect to any Indemnifiable Cost arising out of an event or condition which occurred or existed prior to such expiration or termination.

(k) Governmental Immunity. Pursuant to the provisions of the Governmental Immunity Act of Utah, particularly Utah Code Section 63G-7-301(1), Buyer acknowledges and agrees that it has no immunity from suit as to its contractual obligations to Seller under this Agreement, including the indemnity obligations provided by Sections 9.1(b) and 9.1(c). Buyer covenants that, in the event of any change in such Act that would permit Buyer to assert a defense of sovereign or governmental immunity with respect to its contractual obligations to Seller hereunder, Buyer will not assert such immunity with respect to itself or the revenues and other amounts payable under this Agreement. Notwithstanding the above or anything to the contrary contained in this Agreement, Buyer, as a Utah governmental entity, intends to fully preserve, and does not waive, any of its rights or defenses under the Utah Governmental Immunity Act with respect to any non-contractual liabilities or any liabilities or indemnification obligations resulting from claims by third parties.

Section 9.2 Limitation of Liability. For breach of any provision of this Agreement for which an express remedy or measure of damages is provided, such express remedy or measure of damages shall be the sole and exclusive remedy. Unless expressly herein provided, neither Party shall be liable for consequential, incidental, punitive, exemplary or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract or otherwise (except to the extent that an Indemnifying Party is obligated under Section 9.2 to indemnify against third party claims for consequential, incidental, punitive, exemplary or indirect damages or lost profits or business interruption damages). The limitations herein imposed on remedies and the measure of damages is without regard to the cause or causes related thereto, including the negligence of any Party, whether such negligence be sole, joint or concurrent, or active or passive. Buyer's obligations under this Agreement are limited to revenue collected from the UAMPS' participants in the Red Mesa Solar PPA Project under the UAMPS Firm Power Project.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1 Events of Default by Buyer. Buyer shall be in default under this Agreement upon the happening or occurrence of any of the following events or conditions, each of which shall be an "Event of Default" for purposes of this Agreement:

(a) Buyer breaches or fails to observe or perform any of Buyer's material obligations under this Agreement, other than the obligations described in Section 10.1(c), unless within forty-five (45) days after written notice from Seller specifying the nature of such breach or failure, Buyer either cures such breach or failure or, if such cure cannot reasonably be effected by the payment of money and cannot be completed within forty-five (45) days, commences such cure within forty-five (45) days and thereafter diligently pursues such cure.

(b) Buyer is dissolved, or Buyer's existence is terminated or its business is discontinued, unless this Agreement is assigned to a successor pursuant to Article VII.

(c) Buyer fails to pay, when due, any amount due hereunder, and such failure continues for a period of thirty (30) days following the receipt by Buyer of a written notice of such failure from Seller.

(d) Any representation or warranty of Buyer set forth in this Agreement was false or misleading in any material respect when made, unless (i) the fact, circumstance or condition that is the subject of such representation or warranty is made true within forty-five (45) days after Seller has given notice thereof to Buyer; provided, however, that if the fact, circumstance or condition that is the subject of such representation or warranty cannot be corrected within such forty-five (45) day period and if Buyer within such period of forty-five (45) days commences, and thereafter proceeds with all due diligence, to correct the fact, circumstance or condition that is the subject of such representation or warranty, such period shall be extended for such further period as shall be necessary for Buyer to correct the same with all due diligence, and (ii) such cure removes any adverse effect on Seller of such fact, circumstance or condition being otherwise than as first represented, or such fact, circumstance or condition being otherwise than as first represented does not materially adversely affect Seller.

(e) Buyer shall (i) file a voluntary petition in bankruptcy or file a voluntary petition or otherwise commence any action or proceeding seeking reorganization, liquidation, arrangement or readjustment of its debts or for any other relief under the any Bankruptcy Law, or consent to, approve of, or acquiesce in, any such petition, action or proceeding; (ii) apply for or acquiesce in the appointment of a receiver, liquidator, sequestrator, custodian, trustee or similar officer for it or for all or any part of its property; or (iii) make an assignment for the benefit of creditors.

(f) A proceeding or case is commenced, without the application or consent of Buyer, in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of Buyer, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like, of Buyer or of all or any substantial part of its assets, or (iii) similar relief in respect of Buyer under any Bankruptcy Law, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days from commencement of such proceeding or case or the date of such order, judgment or decree.

Section 10.2 Events of Default By Seller. Seller shall be in default under this Agreement upon the happening or occurrence of any of the following events or conditions, each of which shall be an "Event of Default" for purposes of this Agreement:

(a) Seller breaches or fails to observe or perform any of Seller's material obligations under this Agreement, other than the obligations described in Section 10.2(c), and unless within forty-five (45) days after written notice from Buyer specifying the nature of such breach or failure, Seller either cures such breach or failure or, if such cure cannot reasonably be effected by the payment of money and cannot be completed within forty-five (45) days, commences such cure within forty-five (45) days and thereafter diligently pursues such cure.

(b) Seller is dissolved, or Seller's existence is terminated or its business is discontinued, unless this Agreement is assigned to a successor pursuant to Article VII.

(c) Seller fails to pay, when due, any amount due hereunder, and such failure continues for a period of thirty (30) days following the receipt by Seller of a written notice of such failure from Buyer.

(d) Any representation or warranty of Seller set forth in this Agreement was false or misleading in any material respect when made, unless (i) the fact, circumstance or condition that is the subject of such representation or warranty is made true within forty-five (45) days after Buyer has given notice thereof to Seller; provided, however, that if the fact, circumstance or condition that is the subject of such representation or warranty cannot be corrected within such forty-five (45) day period and if Seller within such period of forty-five (45) days commences, and thereafter proceeds with all due diligence, to correct the fact, circumstance or condition that is the subject of such representation or warranty, such period shall be extended for such further period as shall be necessary for Seller to correct the same with all due diligence, and (ii) such cure removes any adverse effect on Buyer of such fact, circumstance or condition being otherwise than as first represented, or such fact, circumstance or condition being otherwise than as first represented does not materially adversely affect Buyer.

(e) Substantial Commercial Operation has not occurred by the Guaranteed Commercial Operation Date (as extended pursuant to the terms hereof).

(f) Seller shall (i) file a voluntary petition in bankruptcy or file a voluntary petition or otherwise commence any action or proceeding seeking reorganization, liquidation, arrangement or readjustment of its debts or for any other relief under any Bankruptcy Law, or consent to, approve of, or acquiesce in, any such petition, action or proceeding; (ii) apply for or acquiesce in the appointment of a receiver, liquidator, sequestrator, custodian, trustee or similar officer for it or for all or any part of its property; or (iii) make an assignment for the benefit of creditors.

(g) A proceeding or case is commenced, without the application or consent of Seller in any court of competent jurisdiction, seeking (i) the liquidation, reorganization, dissolution, winding-up, or composition or adjustment of debts of Seller, (ii) the appointment of a trustee, receiver, custodian, liquidator or the like, of Seller or of all or any substantial part of its assets, or (iii) similar relief in respect of Seller under any Bankruptcy Law, and such proceeding or case shall continue undismissed, or an order, judgment or decree approving or ordering any of the foregoing shall be entered and continue unstayed and in effect, for a period of sixty (60) days from commencement of such proceeding or case or the date of such order, judgment or decree.

(h) Seller after construction has commenced ceases construction, testing and inspection of the Project for ninety (90) consecutive days unless due to a Force Majeure or a request of Buyer.

(i) After the Commercial Operation Date, Seller fails to deliver Energy Output from the Project to Buyer during any Measurement Period that is at least seventy percent (70%) of the Net Annual Delivery Quantity.

Section 10.3 Remedies.

(a) Declaration of an Early Termination Date and Calculation of Settlement Amounts. If an Event of Default with respect to a Party (the “Defaulting Party”) shall have occurred and be continuing, the other Party (the “Non-Defaulting Party”) shall have the right to take one or more of the following actions: (i) designate a day, no earlier than the day such notice is effective and no later than twenty (20) days after such notice is effective, as an early termination date (“Early Termination Date”), (ii) withhold any payments due to the Defaulting Party under this Agreement, (iii) suspend performance; (iv) exercise any other remedy available at law or in equity; (v) if Buyer is the Non-Defaulting Party, to exercise Buyer’s Step-In Rights; and/or (vi) collect as liquidated damages, (A) the Damage Payment in the case of an Event of Default of Seller that arose at any time prior to achieving Substantial Commercial Operation, or (B) the Termination Payment calculated in accordance with this Section 10.3 in the case of any other Event of Default of either Party. The Non-Defaulting Party shall calculate, in a commercially reasonable manner, the Settlement Amount as of the Early Termination Date; provided that if the Non-Defaulting Party’s Gains exceed its Costs and Losses, then the Settlement Amount shall be zero dollars (\$0). Third parties supplying information for purposes of the calculation of Gains or Losses may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors and other sources of market information. To the extent practicable, market quotations shall be based on a published index. If the Non-Defaulting Party uses the market price for a comparable transaction to determine the Gains or Losses, such price shall be determined by using the average of market quotations published by three (3) or more unaffiliated municipal or investor-owned utilities within six (6) months of the Event of Default; provided, however, that if the Non-Defaulting Party is unable to secure such quotes despite commercially reasonable efforts, then the Parties shall negotiate in good faith to implement an alternative mechanism to establish the Gains or Losses. The Non-Defaulting Party shall not have to enter into a replacement transaction or transactions to establish a Settlement Amount.

(b) Net Out of Settlement Amounts. The Non-Defaulting Party shall aggregate the Settlement Amounts into a single amount by: netting out (i) the Settlement Amount that is due to the Defaulting Party, plus, at the option of the Non-Defaulting Party, any cash or other form of security then available to the Non-Defaulting Party pursuant to Section 10.8, plus any or all other amounts due to the Defaulting Party under this Agreement, against (ii) the Settlement Amount that is due to the Non-Defaulting Party, plus any or all other amounts due to the Non-Defaulting Party under this Agreement, so that all such amounts shall be netted out to a single liquidated amount (the “Termination Payment”) payable by one Party to the other. The Termination Payment shall be due to or due from the Non-Defaulting Party as appropriate.

(c) Notice of Payment of Termination Payment. As soon as practicable after the Early Termination Date, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment and whether the Termination Payment is due to or due from the Non-Defaulting Party. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within five (5) Business Days after such notice or within five (5) Business Days after the resolution of a Dispute in the case where such notice is disputed by the Defaulting Party.

(d) Disputes With Respect to Termination Payment. If the Defaulting Party disputes the Non-Defaulting Party's calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within two (2) Business Days after receipt of the Non-Defaulting Party's calculation of the Termination Payment, pay the undisputed portion and provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute, which shall be resolved in accordance with Section 10.6.

(e) Energy Output Rights Following Seller Event of Default. If this Agreement is terminated by Buyer due to a Seller Event of Default, then for a period of three (3) years following such termination, Buyer shall have the right to repurchase the Energy Output and the associated Environmental Attributes from the Project provided that Seller completes the Project on the Project Site, at the pricing, terms and conditions as originally described under this Agreement.

Section 10.4 Suspension of Performance. Notwithstanding any other provision of this Agreement, if an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon notice to the Defaulting Party, shall have the right (i) to suspend performance under this Agreement (provided, however, that Seller may suspend performance immediately upon the delivery of a notice to Buyer pursuant to Section 10.3(a)); and (ii) to exercise any remedy available at law or in equity.

Section 10.5 Election of Remedies.

(a) Except as specifically limited in this Agreement, each and every right, power and remedy of a Party, whether specifically stated in this Agreement, or otherwise existing, may be exercised concurrently or separately, from time to time, and so often and in such order as may be deemed expedient by the exercising Party, and the exercise or the beginning of the exercise of any such right, power or remedy shall not be deemed a waiver of the right to exercise, at the same time or thereafter, any other right, power or remedy. No delay or omission of a Party in the exercise of any right, power or remedy shall impair or operate as a waiver thereof or of any other right, power or remedy then or thereafter existing.

(b) Notwithstanding any other provision of this Article, neither Party shall terminate this Agreement following the occurrence of an Event of Default by the other Party if, prior to the defaulting Party's receipt of a notice of such termination, and notwithstanding the expiration or unavailability of any cure period provided under this Agreement, the defaulting Party shall have cured the Event of Default.

Section 10.6 Dispute Resolution.

(a) General Provisions.

(i) Every dispute of any kind or nature between the Parties arising out of or in connection with this Agreement (each a “Dispute”) shall be resolved in accordance with this Section, to the extent permitted by Law.

(ii) Referral to Senior Management.

(iii) Upon the occurrence of a Dispute, either Party may deliver a notice to the other Party requesting that the Dispute be referred to the senior management of the Parties. Any such notice shall include the names of the senior management of the Party nominated to attempt to resolve the Dispute, and a schedule of their availability during the thirty (30) day period following the date of the notice. Any such notice shall be delivered within a reasonable time after the Dispute arises, but in no event shall it be delivered less than thirty (30) days before the institution of legal or equitable proceedings based on such Dispute would be barred by any applicable statute of limitations.

(iv) Within seven (7) Business Days after receipt of a notice pursuant to Paragraph (1), the other Party shall provide a notice to the requesting Party indicating the names of the senior management of the Party nominated to attempt to resolve the Dispute, and a schedule of their availability during the remainder of the thirty (30) day period following the date of the notice.

(v) During the remainder of the thirty (30) day period following delivery of the notice, the nominated members of the senior management of the Parties shall meet as frequently as possible, and shall attempt in good faith to resolve the Dispute. Unless the Parties agree otherwise in writing prior to the commencement of such thirty day period, neither Party shall be entitled to invoke or rely on any admissions, settlement offers or other statements made during the course of such discussions in any subsequent arbitration or legal proceedings.

(b) Litigation. Any Dispute that has not been resolved within thirty (30) days after the delivery of a notice in accordance with Section 10.6(a) shall be resolved by litigation in the federal or state courts sitting in Salt Lake City, Utah, it being understood, however, that judgments, orders or decrees resulting from such litigation may be appealed to or enforced in any competent court.

(c) Continued Performance. During the conduct of dispute resolution procedures pursuant to this Section, (i) the Parties shall continue to perform their respective obligations under this Agreement except as otherwise provided in Section 4.4(a)(ii), and (ii) neither Party shall exercise any other remedies hereunder arising by virtue of the matters in dispute; provided, however, that nothing in this Section shall be construed to prevent either Party from suspending performance in the event that the other Party has not paid undisputed amounts due and owing under this Agreement.

Section 10.7 Effect of Termination. No termination of this Agreement following an Event of Default shall relieve the Defaulting Party of its liability and obligations hereunder, and the Non-Defaulting Party may take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligations under this Agreement, and the rights given hereunder shall be in addition to all other remedies available to the Parties, either, at law, in equity, or otherwise, for the breach of this Agreement, provided, however, that any damages for the termination of this Agreement shall be as provided in Section 10.3.

Section 10.8 Duty to Mitigate. The Non-Defaulting Party shall use commercially reasonable efforts to mitigate its Costs, Losses and damages resulting from any Event of Default of the Defaulting Party under this Agreement.

Section 10.9 Security. No later than twenty (20) Business Days following the Effective Date, Seller shall post Development Security to secure Seller's obligations hereunder. Development Security shall be provided in the form of a Letter of Credit or cash to be posted to an escrow account, in each case in the amount of twenty two thousand seven hundred twenty seven dollars (\$22,727) per MWac of Contract Capacity; at a Contract Capacity of 66MWac, such Development Security shall be one million five hundred thousand dollars (\$1,500,000). On or before, July 1, 2020, Seller shall increase the Development Security to the amount of forty five thousand four hundred fifty five dollars (\$45,455) per MWac of Contract Capacity in the form of a Letter of Credit or cash to be posted to an escrow account; at a Contract Capacity of 66MWac, such Development Security shall be three million dollars (\$3,000,000). On or before, May 1, 2021, Seller shall increase the Development Security to the amount of seventy five thousand seven hundred fifty seven dollars (\$75,757) per MWac of Contract Capacity in the form of a Letter of Credit or cash to be posted to an escrow account; at a Contract Capacity of 66MWac, such Development Security shall be five million dollars (\$5,000,000). Notwithstanding the foregoing sentences of this Section 10.9, in the event that any of the milestones listed in Exhibit 1 occurs more than thirty (30) days later than the scheduled dates shown in Exhibit 1 for such milestone, then, within three (3) Business Days of such event, Seller shall increase the Development Security to the amount of seventy five thousand seven hundred fifty seven dollars (\$75,757) per MWac of Contract Capacity in the form of a Letter of Credit or cash to be posted to an escrow account; at a Contract Capacity of 66MWac, such Development Security shall be five million dollars (\$5,000,000). No later than twenty (20) Business Days following the Commercial Operation Date of the Project, Seller shall post the Performance Security to secure Seller's obligations hereunder. Performance Security shall be provided (including as set forth in Section 10.9(c)) in the form of a Letter of Credit or cash posted to an escrow account, in each case, in an amount equal to one year's projected Project revenue based on the Contract Price and the Net Annual Delivery Quantities. All expenses associated with arranging and maintaining the Security shall be the responsibility of Seller.

(a) The Letter of Credit shall have a term of at least one year, and any outstanding Letter of Credit shall be renewed or replaced at least ninety (90) days prior to its expiration by a replacement Letter of Credit meeting the requirements of this Section 10.9. If Seller fails to timely replace the Letter of Credit, Buyer may draw on the entire amount of the Letter of Credit before it expires and such cash shall be treated as Seller's posting of cash security in accordance with this Section 10.9.

(b) In the event that Seller has any payment obligation to Buyer and has failed to pay such amounts within the time required therein, Buyer may draw against the Development Security or Performance Security, as the case may be, an amount equal to the due, undisputed and unpaid obligations, which draw shall satisfy Seller's payment obligation. In the case of such a Buyer draw, within three (3) Business Days Seller shall replenish the applicable Security to the original required amount unless the cause of such draw results in a termination of this Agreement

(c) Seller shall maintain the Development Security on and after its posting until posting of the Performance Security. Seller may elect to apply the Development Security toward the Performance Security requirement for the Project. Seller shall maintain the Performance Security on and after its posting through the end of the Project Delivery Term.

(d) If, after the Commercial Operation Date, no damages are due and owing to Buyer under this Agreement, then Buyer shall return the Development Security less any amount drawn for Delay Damages, if any, to Seller no later than five (5) Business Days after the Commercial Operation Date. Buyer shall return the Performance Security to Seller no later than five (5) Business Days after the end of the Project Delivery Term unless there are, at such time, undisputed amounts due and owing from Seller to Buyer, or an outstanding Dispute regarding any amount claimed to be due and owing from Seller to Buyer, in which case Buyer shall return the Performance Security to Seller no later than five (5) Business Days after the resolution of any such dispute and the payment of all outstanding amounts due from Seller to Buyer. At any time that Performance Security is posted in replacement of previously posted Performance Security, the previously posted Performance Security shall be returned to Seller simultaneously with the occurrence of the effective date of the replacement Performance Security.

To secure its obligations and liabilities under this Agreement, Seller hereby grants to Buyer a present and continuing security interest in, lien on and assignment of, all present and future Development Security, including cash collateral and any and all proceeds thereof, whether now or hereafter held by, on behalf of, or for the benefit of Buyer, and agrees to take such actions as Buyer may reasonably require to perfect such security interest, lien and assignment. Upon or at any time after the occurrence of an Event of Default as to Seller, or upon an Early Termination Date, Buyer (if it is the Non-Defaulting Party) may do any one or more of the following with respect to Seller (if it is the Defaulting Party): (i) exercise any of the rights and remedies of a secured party under applicable Law with respect to all Development Security or Performance Security, (ii) draw on any Letter of Credit or other applicable form of Development Security or Performance Security provided for the benefit of Buyer, and (iii) liquidate all Development Security or Performance Security then held by or for the benefit of Buyer free from any claim or right of any nature whatsoever of Seller, including any equity or right of purchase or redemption by Seller.

ARTICLE XI INSURANCE

Section 11.1 Insurance Policies. Seller shall, at its own cost and expense, procure and maintain in full force and effect during the term of this Agreement, policies of insurance, of the types and in the minimum amounts stated herein, with responsible insurance carriers duly qualified in the state where the Project is located, covering the operations of Seller, pursuant to this Agreement.

TYPES OF INSURANCE	LIMITS OF LIABILITY (Minimum Amounts)
Builder's Risk / Property Damage insurance	Full Replacement Cost of materials and equipment installed or intended to be incorporated in each Project (or stored offsite), subject to industry standard sublimits
Comprehensive or Commercial General Liability and Third Party Property Damage	\$1,000,000 per occurrence, \$2,000,000 aggregate
Excess Liability insurance	\$5,000,000 aggregate
Automobile Liability, if applicable	\$1,000,000 combined single limit
Workers' Compensation/ Employer's Liability, if applicable	Statutory limits required for Workers Compensation and \$500,000 per accident for Employer's Liability

Section 11.2 Requirements. All insurance policies provided and maintained by Seller shall: (i) be underwritten by insurers which are rated A.M. Best "A-VII" or higher, (ii) name Buyer as an additional insured (excluding, however, Workers Compensation/Employer's Liability), (iii) be endorsed to provide, where permitted by Law, waiver of any rights of subrogation against Buyer, and (iv) provide that such policies and additional insured provisions are primary and without right of contribution from any other insurance, self-insurance or coverage available to Buyer. Any deductibles or retentions shall be the sole responsibility of Seller. Seller shall cause the liability it assumed under this Agreement to be specifically insured under the contractual liability section of the liability insurance policies. Such policies shall require that Buyer be given not less than thirty (30) days' prior written notice of any cancellation thereof or material change therein, except ten (10) days for nonpayment of premium. All the provisions of the Policy (except those relating to limits of liability) shall operate as if there were a separate policy covering each Insured for their respective rights and interests.

Section 11.3 Evidence of Coverage. Seller shall provide Buyer with certificates of insurance evidencing all of the above coverage, including all special requirements specifically noted above, and shall provide Buyer with certificates of insurance evidencing renewal or substitution of such insurance no later than ten (10) business days after the effective date of such renewal or substitution.

ARTICLE XII MISCELLANEOUS

Section 12.1 Applicable Law. This Agreement shall be governed by and construed in accordance with the Laws of the State of New York, without reference to conflict of Law principles.

Section 12.2 Notice and Service. Any notice, request, consent, approval, confirmation, communication, or statement which is required or permitted under this Agreement, shall be in writing, except as otherwise provided, and shall be given or delivered by personal service, Federal Express or comparable overnight delivery service, addressed to the Party to be notified at the address set forth in Exhibit 3. Changes in such address shall be made by notice similarly given. Notices shall be deemed to have been received, and shall be effective, upon receipt.

Notices of changes of address by either Party shall be made in writing no later than ten (10) Business Days prior to the effective date of such change.

Section 12.3 Amendment. No amendment or modification of the terms of this Agreement shall be binding on either Buyer or Seller unless such amendment is reduced to writing and signed by both Parties.

Section 12.4 Expenses. Except as specifically set forth in this Agreement, Buyer shall be responsible for Buyer's expenses related to the performance of its obligations under this Agreement, and Seller shall be responsible for Seller's expenses related to the performance of its obligations under this Agreement. If, after the Effective Date, a change of Law occurs that causes a Party to incur additional costs in carrying out its obligations under this Agreement, such Party agrees to pay all costs associated with such change of Law and acknowledges that the Contract Price will not be altered as a result of such change of Law.

Section 12.5 Taxes and Other Charges.

(a) Seller's Taxes. Seller shall be solely responsible for any Tax relating to the development, permitting, construction, ownership or leasing, operation, maintenance or decommissioning of the Project; provided, however, that Seller shall not be responsible for any sales, excise, gross receipts or other Tax, not measured by Seller's net income, imposed with respect to the sale or the purchase of Energy and/or Environmental Attributes hereunder.

(b) Buyer's Taxes. Buyer shall be solely responsible for any Tax imposed with respect to the sale or the purchase of Energy and/or Environmental Attributes from the Project delivered to the Project Delivery Point.

Section 12.6 Maintenance of Records. Both Seller and Buyer shall keep a record of all invoices, receipts, charts, computer printouts, punchcards or magnetic tapes related to the volume or price of sales of Energy made under this Agreement. Such records shall be made available for inspection by either Party from time to time upon reasonable notice at the principal place of business of the non-requesting Party during regular business hours. All such materials shall be deemed to be Proprietary Information, and shall be kept on record for a minimum of five (5) years from the date of their preparation.

Section 12.7 Confidentiality.

(a) Any Proprietary Information of a Party (the "Transferor") which is disclosed to or otherwise received or obtained by the other Party (the "Transferee") incident to this Agreement shall be held, in confidence, and the Transferee shall not (subject to Section 12.7(b)) publish or otherwise disclose any Proprietary Information of the Transferor to any Person for any

reason or purpose whatsoever, or use any Proprietary Information for any purpose other than performance under this Agreement, without the prior written approval of the Transferor, which approval may be granted or withheld by the Transferor in its sole discretion. Without limiting the generality of the foregoing, each Party shall observe at a minimum the same safeguards and precautions with regard to the other Party's Proprietary Information which such Party observes with respect to its own information of the same or similar kind, but not less than the standard that a reasonably prudent person would apply.

(b) Each Party agrees that it will make available Proprietary Information received from the other Party to its own Associated Parties only on a need-to-know basis, and that all Persons to whom such Proprietary Information is made available will be made aware of the confidential nature of such Proprietary Information, and will be required to agree to hold such Proprietary Information in confidence under terms substantially identical to the terms hereof.

(c) Notwithstanding the foregoing:

(i) A Transferee may provide any Proprietary Information to any Governmental Authority having jurisdiction over or asserting a right to obtain such information, provided that (A) such Governmental Authority orders that such Proprietary Information be provided, and (B) the Transferee promptly advises the Transferor of any request for such information by such Governmental Authority and cooperates in giving the Transferor an opportunity to present objections, requests for limitation, and/or requests for confidentiality or other restrictions on disclosure or access, to such Governmental Authority.

(ii) Because Buyer is a political subdivision of the State of Utah, certain disclosures of confidential information may be required by state law or may be ordered by a court of competent jurisdiction to comply with Utah's Government Records Access and Management Act (GRAMA) or similar laws. If Buyer receives either a request to disclose any such confidential information under the terms of a subpoena or order issued by a Governmental Authority of competent jurisdiction or advice of its counsel that disclosure is required by GRAMA or similar laws, Buyer agrees, prior to disclosing any confidential information to the extent practicable and permitted by law, to (a) promptly notify Seller of the existence and terms of, and the circumstances attendant to, such request or advice, (b) consult with Seller as to the advisability of taking legally available steps to resist or narrow such request or advice or to otherwise eliminate the need for such disclosure and (c) if disclosure is required, use commercially reasonable efforts to assist Seller to obtain a protective order or other reliable assurance that confidential treatment will be maximized.

(iii) Seller may, to the extent required, disclose Proprietary Information to any Governmental Authority in connection with the application for any Authorization.

(iv) Seller may disclose Proprietary Information to any prospective Lender or, with Buyer's written consent (not to be unreasonably withheld, conditioned or delayed), to any prospective purchaser for purposes of such party's evaluation in connection with any potential purchase of direct or indirect ownership interests in Seller or the Project, or the provision of debt or equity financing (including equity contributions or

commitments), refinancing of any such financing, or any guarantee, insurance or credit support for or in connection with such financing or refinancing, in connection with the construction, ownership or leasing, operation or maintenance of the Project, or any part thereof; provided that the recipient of any such Proprietary Information agrees to maintain such information in confidence under terms similar to those contained in this Agreement.

(v) Either Party may disclose such Proprietary Information regarding the terms of this Agreement as such Party deems necessary to enable it to comply with the Securities Exchange Act of 1934, or the rules, regulations and forms of the Securities and Exchange Commission, issued thereunder or the applicable rules of any stock exchange.

(d) In the event of a breach or threatened breach of the provisions of Section 12.7(a) by any Transferee, the Transferor shall be entitled to an injunction restraining such Party from such breach. Nothing contained herein shall be construed as prohibiting the Transferor from pursuing any other remedies available at Law or equity for such breach or threatened breach of this Agreement.

(e) The obligation to retain information in confidence shall continue in full force and effect during the Contract Term and for a period of two (2) years thereafter, notwithstanding the expiration or termination of this Agreement, with respect to any information obtained by any Party prior to such expiration or termination.

(f) Definition of Proprietary Information:

(i) The term “Proprietary Information” means all information, written or oral, which has been or is disclosed by the Transferor, or by any Associated Party of the Transferor, or which otherwise becomes known to the Transferee, or to any Associated Party of such Transferee, or any other party in a confidential relationship with, the Transferee, and which (A) relates to matters such as patents, trade secrets, research and development activities, draft or final contracts or other business arrangements, books and records, Insulation data and analysis, generation data and analysis, budgets, cost estimates, pro forma calculations, engineering work product, vendor lists, suppliers, manufacturing processes, energy consumption, pricing information, private processes, and other similar information, as they may exist from time to time, (B) relates to the existence or the terms, including pricing and other commercial terms, of this Agreement, or (C) the Transferor expressly designates in writing to be confidential.

(ii) Notwithstanding anything to the contrary in clause (i) of this Section 12.7(f), Proprietary Information shall exclude information falling into any of the following categories:

1) Information that, at the time of disclosure hereunder, is in the public domain, other than information that entered the public domain due to a breach of this Agreement by Transferee;

2) Information that, after disclosure hereunder, enters the public domain, other than information that enters the public domain due

to a breach of this Agreement by Transferee;

3) Information, other than that obtained from third parties, that prior to disclosure hereunder, was already in Transferee's possession, either without limitation on disclosure to others or subsequently becoming free of such limitation;

4) Information obtained by Transferee from a third party having an independent right to disclose the information; or

5) Information that is available through independent research without use of or access to the Proprietary Information.

Section 12.8 No Partnership. Notwithstanding any provision of this Agreement, Seller and Buyer do not intend to create hereby any lease, joint venture, partnership, association taxable as a corporation, or other entity for the conduct of any business for profit. Neither Party shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party. Seller and Buyer agree to take, on a timely basis, all voluntary action as may be necessary to be excluded from treatment as a partnership under the Code, and, if it should appear that one or more changes to this Agreement would be required in order to prevent the creation of such a business entity, Seller and Buyer agree to negotiate promptly in good faith with respect to such changes.

Section 12.9 No Duty To Third Parties. Except as provided in Article VII, this Agreement is for the sole benefit of the Parties hereto, and nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any Person not a party to this Agreement. Except as specifically provided herein, no Person shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder, or both, except Buyer and Seller. Except as provided in Article VII, the Parties specifically disclaim any intent to create any rights in any Person as a third-party beneficiary to this Agreement or the services to be provided hereunder, or both.

Section 12.10 Dedication. No undertaking by one Party to the other under this Agreement shall constitute the dedication of that Party's system or any portion thereof to the other Party or to the public or affect the status of Seller as an independent entity and not a public utility or public service company.

Section 12.11 Information. Subject to Section 12.7, each Party shall make available to the other such other information relative to the Project as may be reasonably required to carry out the terms of this Agreement.

Section 12.12 Counterparts. This Agreement may be executed simultaneously in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

Section 12.13 Severability. If any provision of this Agreement shall be determined to be unenforceable, void or otherwise contrary to Law, or in the event that any of the provisions, or

portions or applications thereof, of this Agreement are held unenforceable or invalid by any court of competent jurisdiction, such condition shall in no manner operate to render any other provision of this Agreement unenforceable, invalid, void or contrary to Law, and this Agreement shall continue in force in accordance with the remaining terms and provisions hereof; provided, however, that Seller and Buyer shall negotiate in good faith to attempt to implement an equitable adjustment in the provisions of this Agreement with a view toward effecting the purposes of this Agreement by replacing the provision that is unenforceable, invalid, void, or contrary to Law with a valid provision the economic effect of which comes as close as possible to that of the provision that has been found to be unenforceable, invalid, void, or contrary to Law.

Section 12.14 Audit Rights. Subject to Section 12.7, and no more often than once per year, the Parties shall have the right from time to time throughout the Contract Term, upon reasonable prior notice, to audit the other Party's books and records to the limited extent necessary to verify the basis for any claim by either of the Parties for payments hereunder or to determine the other Party's compliance with the terms of this Agreement. The audited Party shall make such records available at its office during normal business hours and the auditing Party shall reimburse the other Party for reasonable costs incurred by the audited Party by the audit, as supported by appropriate documentation. Any information learned during the course of any such audit shall be deemed to be Proprietary Information.

Section 12.15 Successors and Assigns. Except to the extent otherwise indicated herein, all the rights, benefits, duties, liabilities and obligations of the Parties hereto shall inure to the benefit of and be binding upon their respective successors and permitted assigns.

Section 12.16 Integration. There are no understandings between the Parties as to the subject matter of this Agreement other than as set forth herein, and this Agreement represents the entire understanding between the Parties in relation to the subject matter hereof. This Agreement supersedes any and all previous agreements, arrangements or discussions between the Parties (whether written or oral) in respect of the subject matter hereof, all of which are hereby abrogated and withdrawn.

Section 12.17 Survival. The applicable provisions of this Agreement shall continue in effect after the expiration of the Contract Term, to the extent necessary to provide for final billing and adjustment, and to make other appropriate settlements hereunder.

Section 12.18 Forward Contract. The Parties acknowledge and agree that this Agreement constitutes a "forward contract" and that Seller is a "forward contract merchant" within the meaning of the United States Bankruptcy Code.

Section 12.19 Standard of Review.

(a) Absent the agreement of all Parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of this Agreement, whether proposed by a Party (to the extent that any waiver in subsection (b) below is unenforceable or ineffective as to such Party), a non-party or FERC acting *sua sponte*, shall solely be the "public interest" application of the "just and reasonable" standard of review set forth in United Gas Pipe Line Co. v. Mobile Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v.

Sierra Pacific Power Co., 350 U.S. 348 (1956), and clarified by *Morgan Stanley Capital Group, Inc. v. Public Util. Dist. No. 1 of Snohomish*, 554 U.S. 527 (2008) (the “Mobile Sierra Doctrine”).

Notwithstanding any provision of Agreement, and absent the prior written agreement of the Parties, each Party, to the fullest extent permitted by applicable Law, for itself and its respective successors and assigns, hereby expressly and irrevocably waives any rights it can or may have, now or in the future, whether under §§ 205 and/or 206 of the Federal Power Act or otherwise, to seek to obtain from FERC by any means, directly or indirectly (through complaint, investigation, supporting a third party seeking to obtain or otherwise), and each hereby covenants and agrees not at any time to seek to so obtain, an order from FERC changing any Section of this Agreement specifying any rate, charge, classification or other term or condition of this Agreement notwithstanding any subsequent changes in applicable Law or market conditions that may occur. In the event it were to be determined that applicable Law precludes the Parties from waiving their rights to seek changes from FERC to this Agreement (including entering into covenants not to do so) then this subsection (b) shall not apply, provided that, consistent with the foregoing subsection (a), neither Party shall seek any such changes except solely under the “public interest” application of the “just and reasonable” standard of review and otherwise as set forth in the foregoing subsection (a).

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IN WITNESS WHEREOF, the Parties have caused the signatures of their authorized Officers as of the day and year first above written.

BUYER:

**UTAH ASSOCIATED MUNICIPAL POWER
SYSTEMS**

By: _____
Name:
Title:

SELLER:

NTUA GENERATION – UTAH, LLC

By: _____
Name:
Title:

EXHIBIT 1
DESCRIPTION OF THE PROJECT; DEVELOPMENT MILESTONE SCHEDULE

The Project is a nominal 66 MW solar photovoltaic electric generation facility located in San Juan County, Utah, on the Project Site. The Project shall consist of Tier 1 quality modules, 40% Mono-Facial and 60% Bi-Facial (see module data sheet attached to this Exhibit 1), estimated 375-400 W, as well as Tier 1 quality (Central) inverters and related material and equipment to ensure the delivery of the nominal 66 MW solar at the interconnection point. The module minimum warranties shall be those described in the attached module data sheet. The tracking technology is Horizontal Single-Axis Tracker. Expected Energy Output Assumptions:

- DC:AC Ratio - 1.35
- P50/P90 annual generation expectation - Year Zero 185,998/169,926 MWh
- Ground coverage ratio - 31%
- System losses; efficiencies - 1% availability loss assumed

The Project will be connected from the Interconnection Provider's Interconnection Facilities along the Interconnection Provider's system to the Abajo/McCracken interconnection point of the Transmission Provider's System.

The Project Site consists of an approximately several hundred acre tract on the Navajo Nation within San Juan County, Utah on which the Project is located and all associated real property rights. Without limiting the foregoing, the Project Site includes any and all real property licenses, rights of way, servitudes, easements, and other real property rights on which the Project is located or appurtenant to or benefitting the Project (including for access to the Project).

MILESTONE SCHEDULE:	MONTHS AFTER PPA SIGNED
1. Permitting	
a. FONSI Application Submitted to BIA	6 Months
b. Lease Application Submitted to Navajo Nation	10 Months
2. Permanent Debt Financing Application	8 Months
a. Projected Approval Date	20 Months
3. Interconnection Agreement	1 Month
4. Substation/Powerline Project Schedule	
a. Material Orders	6 Months
b. Construction Start Date	18 Months
c. Construction Completion Date	30 Months
5. Notice of RFP for Engineering Procurement Contractor	10 Months
a. Date of Bid Opening	12 Months
b. Date of Award	13 Months
6. Engineering Procurement Contractor	
a. Date of Work Commencement	20 Months
b. Date of Substantial Completion	30 Months

[attach Canadian Solar datasheet for BiHiKu CS3W PB-AG High Efficiency modules]

EXHIBIT 2
NET ANNUAL DELIVERY QUANTITIES

The “Net Annual Delivery Quantity” for the Project shall be 195,337 MWh/year for the first Measurement Period following the Commercial Operation Date, reduced by 0.5% of the Net Annual Delivery Quantity for the first Measurement Period in each successive Measurement Period. The Net Annual Delivery Quantity is shown in Table 1 below for each Measurement Period.

In the event that Contract Capacity is less than 66 MW, including as it may be reduced as set forth in Sections 3.1(b) and 3.3(b), Seller shall provide a new solar plant performance estimation report based on the reduced Contract Capacity using a Solar Performance Modeling Program reasonably acceptable to Buyer (provided that a pro rata reduction proportionate to any reduction in Contract Capacity shall be deemed to be reasonably acceptable to Buyer) and the “Net Annual Delivery Quantity,” the table set forth in this Exhibit 2, and the floor prices shown in Exhibit 8 shall be updated accordingly.

Table 1: Net Annual Delivery Quantity

Measurement Period	Net Annual Delivery Quantity (MWh)
1	195,337
2	194,358
3	193,379
4	192,400
5	191,421
6	190,442
7	189,462
8	188,483
9	187,504
10	186,525

11	185,546
12	184,567
13	183,588
14	182,608
15	181,629
16	180,650
17	179,671
18	178,692
19	177,713
20	176,734
21	175,755
22	174,775
23	173,796
24	172,817
25	171,838

Example Calculation of Net Annual Delivery Guarantee and Liquidated Damages:

NAG =- Net Annual Delivery Guarantee for 2 prior Measurement Periods
 EP = Actual Energy Production for 2 prior Measurement Periods
 DG = Deemed Generation for 2 prior Measurement Periods
 AQS = Annual Quantity Shortfall
 EORC = Energy Output Replacement Cost
 LD = Liquidated Damages for Annual Quantity Shortfall

If the NAG greater than the sum of EP and DG, then:

$$AQS = NAG - (EP + DG)$$

$$LD = AQS * EORC$$

EXHIBIT 3
NOTICE ADDRESSES

Buyer	Seller
Notices: Utah Associated Municipal Power Systems Attention: Email:	Notices: []

EXHIBIT 4
FORM OF CONSENT

This CONSENT AND AGREEMENT (this “Consent”), dated as of [____], 20[____], is entered into by and among Utah Associated Municipal Power Systems, a political subdivision of the State of Utah, its successors and permitted assigns “Buyer”, [____] (together with its successors, designees and assigns in its capacity, “Lender”), and [____] a Delaware limited liability company (together with its successors and permitted assigns, “Seller”). Unless otherwise defined, all capitalized terms have the meaning given in the Power Purchase Agreement (as hereinafter defined).

RECITALS

A. Seller intends to develop, construct, install, test, own, operate and use an approximately 66 MW solar photovoltaic generation facility (the “Project”).

B. Buyer and Seller have entered into that certain Solar Power Purchase Agreement, dated as of _____, 2019 (as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof and hereof, the “Power Purchase Agreement”).

C. In order to partially finance the development, construction, installation, testing, operation and use of the Project, Seller and/or one or more of its Affiliates has entered into that certain [Financing Agreement], dated as of _____ (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Financing Agreement”), among Seller and/or one or more of its Affiliates, the financial institutions from time to time parties thereto as lenders and/or issuing banks, and Lender as agent on behalf of such financial institution, pursuant to which, among other things, such financial institutions have extended commitments to make loans and other financial accommodations to, and for the benefit of, Seller.

D. Pursuant to a [Security Agreement] between Seller and Lender, dated as of _____ (as amended, amended and restated, supplemented or otherwise modified from time to time, the “Security Agreement”), Seller has agreed, among other things, to assign, as collateral security for the obligations of Seller and/or one or more of its Affiliates under the Financing Agreement and related documents (collectively, the “Financing Documents”), all of its right, title and interest in, to and under the Power Purchase Agreement to Lender for the benefit of Lender and each other entity or person providing loans and/or other financial accommodations to, and for the benefit of, Seller and/or such Affiliates under the Financing Documents.

E. It is a condition to Lender’s obligations under the Financing Agreement that Buyer and the other parties hereto execute this Consent.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the parties hereto hereby agree as follows:

1. CONSENT TO ASSIGNMENT. Subject to the terms and conditions below, Buyer consents to an assignment of all of Seller's rights and obligations under the Power Purchase Agreement by Seller to Lender as collateral pursuant to the Financing Documents.

2. LIMITATIONS ON ASSIGNMENT.

(a) Lender shall be entitled (but not obligated) to exercise all rights and to cure any defaults of Seller under the Power Purchase Agreement, subject to applicable notice and cure periods provided in the Power Purchase Agreement and as set forth herein. Upon receipt of notice from Lender, Buyer agrees to accept such exercise and cure by Lender if timely made by Lender under the Power Purchase Agreement and this Consent. Upon receipt of Lender's written instructions and to the extent allowed by law, Buyer agrees to make directly to such account as Lender may direct Buyer in writing from time to time, all payments to be made by Buyer to Seller under the Power Purchase Agreement from and after Buyer's receipt of such instructions, and Seller consents to any such action. Buyer shall have no liability to Seller under the Power Purchase Agreement or this Consent for directing such payments to Lender in accordance with this clause (a).

(b) Buyer agrees to deliver duplicates or copies of all notices of default delivered by Buyer under or pursuant to the Power Purchase Agreement to Lender in accordance with the notice provisions of this Consent. Buyer shall deliver any such notices concurrently with delivery of the notice to Seller under the Power Purchase Agreement. In the event of a default or breach by Seller in the performance of any of its obligations under the Power Purchase Agreement, or upon the occurrence or non-occurrence of any event or condition under the Power Purchase Agreement which would immediately or with the passage of any applicable grace period or the giving of notice, or both, enable Buyer to terminate the Power Purchase Agreement or to suspend performance of its obligations thereunder (hereinafter, a "Default"), Buyer shall not terminate the Power Purchase Agreement or suspend performance of its obligations thereunder until it first gives written notice of such Default to Lender and affords Lender (i) if such Default is the failure to pay amounts to Buyer which are due and payable under the Power Purchase Agreement, a period of twenty (20) Business Days (as defined in the Power Purchase Agreement) from the later to occur of (A) the expiration of Seller's cure period under the Power Purchase Agreement, if any, or (B) receipt of such notice, in each such case, to cure such Default or (ii) with respect to any other Default, forty-five (45) days from the later to occur of (A) the expiration of Seller's cure period under the Power Purchase Agreement, if any, or (B) receipt of such notice, in each such case, to cure such non-payment Default; provided that during the applicable cure period Lender or Seller continues to perform each of Seller's other obligations under the Power Purchase Agreement). If (x) possession of any Project is necessary to cure such Default or (y) if the Default can only be cured by Seller and is not curable by Lender, such as the insolvency, bankruptcy, general assignment for the benefit of the secured parties under the Financing Agreement, or appointment of a receiver, trustee, custodian or liquidator of Seller or its properties, and, in each such case,

Lender or its successor(s), assignee(s) and/or designee(s) declares an “Event of Default” under the Financing Agreement and Lender commences foreclosure proceedings or any other proceedings necessary to take possession of the Project, Lender or its successors(s), assignee(s) and/or designee(s) will be allowed a reasonable period to both commence (not to exceed sixty (60) days) and complete (not to exceed one hundred eighty (180) days) such proceedings, provided that, once commenced, Lender, or its successor(s), assignee(s) and/or designee(s) shall pursue such proceedings with due dispatch and provided, further, that if the Default can only be cured by Seller and is not curable by Lender, such as the insolvency, bankruptcy, general assignment for the benefit of the secured parties under the Financing Agreement, or appointment of a receiver, trustee, custodian or liquidator of Seller or its properties, Lender shall be entitled to assume the rights and obligations of Seller under the Power Purchase Agreement and provided such assumption occurs, Buyer shall not be entitled to terminate the Power Purchase Agreement or suspend its performance thereunder as a result of such Default unless Lender fails to cure such Default or to commence and prosecute such proceedings within the foregoing time periods. If either Lender or its successor(s), assignee(s) and/or designee(s) is prohibited by any court order or bankruptcy or insolvency proceedings of Seller from curing the Default or from commencing or prosecuting such proceedings, the foregoing time periods shall be extended by the period of such prohibition, provided that Lender or its successor(s), assignee(s) and/or designee(s) is pursuing relief from such prohibition with due dispatch. Buyer shall recognize the Lenders or their designee(s) or assignee(s) as the applicable party under the Power Purchase Agreement provided that such Lender or their designee(s) or assignee(s) assume the obligations of Seller under the Power Purchase Agreement, including, without limitation, satisfaction and compliance with all credit provisions of the Power Purchase Agreement and provided further that such Lender or their designee(s) or assignee(s) has a creditworthiness or total credit support at least equal to that of Seller as of the date hereof.

(c) In the event that the Power Purchase Agreement is rejected by a trustee or debtor-in-possession in any bankruptcy or insolvency proceeding, and if, within sixty (60) days after such rejection, the Lender shall so request, Buyer will execute and deliver to Lender a new power purchase agreement, which shall be on the same terms and conditions as the original Power Purchase Agreement for the remaining term of the original Power Purchase Agreement before giving effect to such rejection, and which shall require Lender to cure any defaults then existing under the original Power Purchase Agreement, except any performance defaults of Seller itself, which by their nature are not susceptible of being cured.

(d) In the event Lender or its designee(s) or assignee(s) elect(s) to perform Seller’s obligations under the Power Purchase Agreement, succeed to Seller’s interest under the Power Purchase Agreement, or enter into a new power purchase agreement as provided in Section 2(c) above, the recourse of Buyer against Lender or its designee(s) and assignee(s) shall be limited to such party or parties’ interests in the Project Portfolio, the credit support required under the Power Purchase Agreement, any currently existing guaranties made to the benefit of Buyer by Seller, Seller’s Affiliates or Seller’s insurers to the extent such guaranties have not been exhausted at the time of assignment and any remedies available pursuant to the new power purchase agreement if entered into between Buyer and Lender or its designee(s) or assignee(s) as provided in Section 2(c) above.

(e) In the event Lender or its designee(s) or assignee(s) succeed to Seller’s interest

under the Power Purchase Agreement, Lender or its designee(s) or assignee(s) shall cure any then-existing payment and performance defaults under the Power Purchase Agreement, except any performance defaults of Seller itself, which by their nature are not susceptible of being cured. Lender and its designee(s) or assignee(s) shall have the right to assign their interest in the Power Purchase Agreement to a person or entity to whom Seller's interest in the Project is transferred, provided such transferee assumes the obligations of Seller under the Power Purchase Agreement and has a creditworthiness or total credit support at least equal to that of Seller as of the date hereof. Upon such assignment, Lender and its designee(s) or assignee(s) (including their agents and employees) shall be released from any further liability thereunder accruing from and after the date of such assignment, to the extent of the interest assigned.

3. REPRESENTATIONS AND WARRANTIES. Buyer hereby represents and warrants that as of the date of this Consent:

(a) It (i) is duly formed and validly existing under the laws of the State of Utah, and (ii) has all requisite power and authority to enter into and to perform its obligations hereunder and under the Power Purchase Agreement, and to carry out the terms hereof and thereof and the transactions contemplated hereby and thereby;

(b) the execution, delivery and performance of this Consent and the Power Purchase Agreement have been duly authorized by all necessary action on its part and do not require any approvals, material filings with, or consents of any entity or person which have not previously been obtained or made;

(c) this Consent and the Power Purchase Agreement are in full force and effect;

(d) this Consent and the Power Purchase Agreement have been duly executed and delivered on its behalf and constitutes its legal, valid and binding obligations, enforceable against it in accordance with their respective terms, except as the enforceability thereof may be limited by (i) bankruptcy, insolvency, reorganization or other similar laws affecting the enforcement of creditors' rights generally and (ii) general equitable principles (whether considered in a proceeding in equity or at law);

(e) there is no litigation, arbitration, investigation or other proceeding pending for which Buyer has received service of process or, to Buyer's actual knowledge, threatened against Buyer relating solely to this Consent, the Power Purchase Agreement and the transactions contemplated hereby and thereby;

(f) the execution, delivery and performance by it of this Consent, the Power Purchase Agreement, and the consummation of the transactions contemplated hereby, will not result in any violation of, breach of or default under any term of any material contract or material agreement to which it is a party or by which it or its property is bound, or of any material requirements of law presently in effect having applicability to it, the violation, breach or default of which could have a material adverse effect on its ability to perform its obligations under this Consent;

(g) neither Buyer nor, to Buyer's actual knowledge, any other party to the Power Purchase Agreement, is in default of any of its obligations thereunder, and no disputes exist between Buyer and Seller thereunder; and

(h) to Buyer's actual knowledge, (i) no Force Majeure exists under the Power Purchase Agreement and (ii) no event or condition exists which would either immediately or with the passage of any applicable grace period or giving of notice, or both, enable either Buyer or Seller to terminate or suspend its obligations under the Power Purchase Agreement.

4. NOTICES. All notices required or permitted hereunder shall be in writing and shall be effective (a) upon receipt if hand delivered, (b) upon telephonic verification of receipt if sent by facsimile, (c) upon confirmation of receipt if sent by email and (d) if otherwise delivered, upon the earlier of receipt or five (5) Business Days after being sent registered or certified mail, return receipt requested, with proper postage affixed thereto, or by private courier or delivery service with charges prepaid, and addressed as specified below:

If to Buyer:

Utah Associated Municipal Power
Systems

[Address]

Attention: ☐

Facsimile: ☐

Email: ☐

If to Lender:

[Name]

[Address]

Attention: ☐

Facsimile: ☐

Email: ☐

If to Seller:

[Address]

Attention: ☐

Facsimile: ☐

Email: ☐

Any party shall have the right to change its address for notice hereunder to any other location within the United States by giving written notice to the other parties in the manner set forth above.

5. ASSIGNMENT, TERMINATION, AMENDMENT. This Consent shall be binding upon and benefit the successors and assigns of the parties hereto and their respective successors, transferees and assigns (including without limitation, any entity that refinances all or any portion of the obligations under the Financing Agreement). Buyer agrees (a) to confirm such continuing obligation in writing upon the reasonable request of (and at the expense of) Seller, Lender or any of their respective successors, transferees or assigns, and (b) to cause any successor-in-interest to Buyer with respect to its interest in the Power Purchase Agreement to assume, in writing in form and substance reasonably satisfactory to Lender, the obligations of Buyer hereunder. Any purported assignment or transfer of the Power Purchase Agreement not in conjunction with the written instrument of assumption contemplated by the foregoing clause (b) shall be null and void. No termination, amendment, or variation of any provisions of this Consent shall be effective unless in writing and signed by the parties hereto. No waiver of any provisions of this Consent shall be effective unless in writing and signed by the party waiving any of its rights hereunder.

6. GOVERNING LAW. This Consent shall be governed by the laws of the State of New York applicable to contracts made and to be performed in such State. THE FEDERAL AND STATE COURTS SITUATED IN THE BOROUGH OF MANHATTAN IN THE STATE OF NEW YORK SHALL HAVE EXCLUSIVE JURISDICTION TO RESOLVE ANY DISPUTES WITH RESPECT TO THIS CONSENT AND AGREEMENT WITH BUYER, SELLER, AND LENDER IRREVOCABLY CONSENTING TO THE JURISDICTION THEREOF FOR ANY ACTIONS, SUITS, OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS CONSENT.

7. COUNTERPARTS. This Consent may be executed in one or more duplicate counterparts, and when executed and delivered by all the parties listed below, shall constitute a single binding agreement.

8. SEVERABILITY. In case any provision of this Consent or the obligations of any of the parties hereto, shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions, or the obligations of the other parties hereto, shall not in any way be affected or impaired thereby.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties hereto by their officers thereunto duly authorized, have duly executed this Consent as of the date first set forth above.

**UTAH ASSOCIATED MUNICIPAL POWER
SYSTEMS**

as Buyer

By:_____ Name:_____

Title:_____ [____],

as Seller

By:_____ Name:_____

Title:_____ [____],

as Lender

By:_____ Name:_____

Title:_____

EXHIBIT 5
FORM OF ESTOPPEL

Addressees:

[Borrower and/or Seller]

[Tax Equity Investor]

[Collateral Agent]

[Others as required]

RE: Status of Solar Power Purchase Agreement

Ladies and Gentlemen,

This letter is being delivered at the request of []. (the “Seller”) in connection with that certain Solar Power Purchase Agreement, dated as of _____ (the “Agreement”), by and between Utah Associated Municipal Power Systems(the “Buyer”) and the Seller. This letter is also being delivered in connection with (i) [Financing Agreement description to be added] and (ii) [Tax Equity Investment Agreement description to be added]. Capitalized terms not defined herein shall have the meanings set forth in the Agreement.

The Buyer hereby confirms and agrees as follows:

1. The copy of the Agreement, attached hereto as Exhibit A, constitutes a true, correct and complete copy of the Agreement.
2. The Agreement is in full force and effect and has not been modified, supplemented or amended in any way, except as set forth on Exhibit A hereto, and constitutes the entire agreement between the Buyer and the Seller relating to the matters set forth therein.
3. The Buyer is [] duly organized, validly existing and in good standing under the laws of Utah and has all requisite power and authority to conduct, execute, deliver and perform its obligations under the Agreement and this letter.
4. The execution, delivery and performance by the Buyer of the Agreement and this letter have been duly authorized by all necessary company action on the part of the Buyer and do not require any approvals, filings with or consents of any entity or person which have not previously been obtained or made.

5. The Buyer has not transferred, pledged or assigned, in whole or in part, any of its right, title or interest in, to and under the Agreement.
6. The Buyer is not and, to the knowledge of the Buyer, the Seller is not, in default under the Agreement, and no facts or circumstances are currently known to exist which, with the passage of time or the giving of notice or both, would constitute a default by either such party under the Agreement.
7. There are no actions pending against the Buyer under the bankruptcy or any similar laws of the United States or any state.
8. To the Buyer's knowledge, there is currently no event, act, circumstance or condition constituting a Force Majeure for the Buyer under the Agreement, as defined therein, and the Buyer has not received any notice from the Seller that the Seller is unable to perform its obligations to the Buyer under the Agreement due to a Force Majeure.
9. The Seller has not received or, to the Buyer's knowledge, claimed any amounts under the indemnification obligations of the Buyer set forth in the Agreement.
10. No payments have become due under the Agreement to the Buyer through the period ending on the date hereof that remain unpaid or undischarged.
11. To the Buyer's knowledge, the obligations of the Seller under the Agreement required to be performed on or before the date hereof (including the payment of any amounts) have been properly performed or expressly waived in writing.
12. To the Buyer's knowledge, there are no disputes or proceedings between the Buyer on the one hand and the Seller on the other hand.
13. This letter may be executed and delivered by facsimile or other electronic means (e.g., e-mail transmission of version in .pdf format) and shall be legally binding on the party so executing and delivering such counterpart, provided that an original signature is delivered thereafter.

Sincerely, [____]

By: _____
Name:
Title:

EXHIBIT A

AGREEMENT

EXHIBIT 6
BUYER'S STEP-IN RIGHTS

- (a) Following, and prior to cure of, any Seller Event of Default under this Agreement by Seller that prevents or materially interferes with Buyer's right and ability to receive the Energy Output of the Project, and prior to any expiration or earlier termination of this Agreement, if Seller has not commenced or is not diligently pursuing to conclusion an appropriate cure of such default consistent with Good Utility Practice, Buyer shall have the right, but not the obligation, to enter, assume control of, pursue and complete construction (if prior to the Commercial Operation Date), operate and maintain the Project as agent for Seller, without bond or other security. The period of any such control and operation of the Project by Buyer is referred to herein as an "Intervention Period." Seller shall not grant any Person, other than Lender, any rights to possess, assume control of, construct, operate and/or maintain the Project that are equal to or superior to Buyer's rights under this Exhibit 6. Seller shall include in each agreement between the Seller and a third party (e.g., Project Site lease agreement, EPC agreement, O&M agreement, interconnection agreement, etc.) a provision whereby the counterparty to such agreement acknowledges Buyer's Step-In Rights.
- (b) Buyer shall give Seller and Lender at least five (5) Business Days, after the Seller's period for cure written notice in advance of the contemplated exercise of Buyer's rights under this Exhibit 6, specifying the date on which Buyer will assume control of the Project. Upon such notice, Seller shall collect and have available at a convenient, central location at the Project all documents, contracts, books, manuals, reports, and records required to construct, operate, and maintain the Project in accordance with Good Utility Practice. Beginning as of the date specified in such notice, and provided that Lender has not exercised its right to take possession of the Project as provided below, Buyer (including relevant employees and qualified designated contractors) shall have the unrestricted right to enter the Project Site for the purpose of continuing construction and/or operation of the Project. Seller hereby appoints Buyer as Seller's attorney-in-fact (being coupled with an interest, such appointment shall be irrevocable prior to the end of the Project Delivery Term) for the purpose of executing such documents and taking such other actions as Buyer may reasonably deem necessary or appropriate to enable and facilitate the exercise of Buyer's step-in rights under this Exhibit 6. Capital and operating expenditures reasonably incurred by Buyer during any Intervention Period, in connection with Buyer's exercise of its step-in rights, including a return on capital expenditures at [Buyer's authorized return on equity], are referred to herein as "Intervention Expenses."
- (c) Amounts due from Buyer to Seller under Article 4 shall continue to accrue for the account of Seller during any Intervention Period. Buyer may offset such amounts against Buyer's Intervention Expenses. In the event that Buyer's Intervention Expenses exceed the amounts due to Seller under Article 4 during the Intervention Period, Buyer shall be entitled to immediately draw upon the Security to cover such excess and/or to offset such excess against amounts due to Seller under Article 4 following the end of the Intervention Period. In the event that amounts due to Seller under Article 4 during the Intervention Period

exceed Buyer's Intervention Expenses, such excess shall be remitted to or at the direction of Seller.

(d) During any Intervention Period:

- (i) Buyer shall perform and comply with all of the obligations of Seller under this Agreement. Buyer shall construct and/or operate the Project, as applicable, only in the ordinary course of business, substantially as pursued by Seller prior to exercise of Buyer's step-in rights. By way of example only, during the Intervention Period, Buyer may not and shall not on behalf of Seller (A) enter into any new long-term contract with any off-taker from the Project, (B) amend or waive any material term of this Agreement, or (C) enter into, amend or waive any material term of any operating, maintenance or other contract affecting the Project, unless so required by Good Utility Practice.
 - (ii) Seller shall retain legal title to and ownership of the Project and the Project Site.
 - (iii) Seller may resume construction and/or operation (as applicable) and Buyer shall relinquish its right to control, construct and operate the Project when (A) Seller demonstrates to Buyer's reasonable satisfaction that Seller will resume operation of the Project in accordance with the provisions of this Agreement, and (B) Seller has cured the default of Seller which allowed Buyer to exercise its rights under this Exhibit 6 (or, if the default is of such a nature that the default cannot be cured by Seller absent possession of the Project, reasonable assurance that Seller will cure such default promptly following resumption of possession).
 - (iv) The Lender, or any nominee thereof, may take possession of and construct, operate and maintain the Project, and Buyer shall relinquish its control of the Project, when the Lender or any nominee or transferee thereof so requests.
 - (v) Buyer shall continue construction of, and/or operate and maintain, the Project (as applicable) in conformance with Good Utility Practice.
- (e) Buyer's exercise of its rights hereunder to possess and operate the Project shall not be deemed an assumption by Buyer of any liability of Seller.
- (f) Buyer may return possession and control of the Project to Seller at any time following exercise of Buyer's step-in rights under this Exhibit 6, regardless of the status of any cure of the default that led to Buyer's exercise of such rights, upon at least fifteen (15) Business Days advance notice to Seller. Seller shall take all measures necessary to resume possession and operation of the Project on the effective date specified in any such notice.

EXHIBIT 7
DELAY DAMAGES

January - \$8,592

February - \$7,779

March - \$9,223

April - \$9,423

May - \$11,856

June - \$18,087

July - \$25,389

August - \$22,266

September - \$15,639

October - \$12,960

November - \$9,549

December - \$7,964

EXHIBIT 8
EARLY PURCHASE OPTION

a. Early Purchase Option.

- i. Seller hereby grants to Buyer options to purchase (“Early Purchase Option”) the Project as of the 10th, 15th, and 20th anniversaries of the Commercial Operation Date (the “Early Option Closing Date”), at a “Purchase Price” (as defined below) by providing written notice to Seller no less than two hundred and forty (240) days before the Early Option Closing Date. The “Purchase Price” shall be the Fair Market Value of the Project as determined by an independent appraiser agreed to by the Parties, absent the Parties establishing a fixed Purchase Price prior to the satisfaction of the conditions precedent under Section 3.4 of this Agreement.
- ii. Upon the acquisition of the Project by Buyer pursuant to the Early Purchase Option, this Agreement shall terminate and neither Party shall have any liability to the other Party under this Agreement, except for any liability that arose prior to such termination.

b. Purchase Option at the End of Term.

- i. Seller hereby grants to Buyer the option to purchase the Project at the end of the Project Delivery Term (the “Final Purchase Option”) for the Purchase Price (as defined above) which option may be exercised by Buyer providing written notice to Seller no less than two hundred and forty (240) days prior to the end of the Project Delivery Term of Buyer’s interest in exercising the Final Purchase Option.
- c. Efforts Required to Transfer Project. If Buyer exercises the Early Purchase Option or the Final Purchase Option, then after all necessary regulatory approvals are received, Seller will take all actions necessary to transfer by deed, bill of sale, or both, the Project to Buyer, as well as all other improvements placed on the Project Site and owned by Seller that are required for the continued and uninterrupted use, maintenance and operation of the Project, free and clear from any lien or monetary encumbrance for which Seller or its representatives are responsible. In addition, Seller will assign to Buyer all transferrable permits and required Project documents, and all transferrable warranties for the Project. Seller shall cooperate with Buyer to assign and enforce any and all warranties that apply to the Project or any of its component parts, which obligation shall survive the termination of this Agreement. If Buyer agrees to purchase the Project pursuant to the Early Purchase Option or the Final Purchase Option, such purchase shall be on an “as-is, where-is” basis, provided that such purchase shall occur pursuant to a form of purchase and sale agreement with customary representations, warranties and covenants and in form

reasonably acceptable to Buyer, which purchase shall be conditioned upon Buyer obtaining all necessary regulatory approvals.

- d. Due Diligence; Cooperation; Regulatory Approvals; Notice of Rights. Seller will provide in a timely manner, information regarding the Project which is reasonably requested by Buyer to allow Buyer to perform due diligence for the purchase of the Project pursuant to the Early Purchase Option or the Final Purchase Option. Seller shall provide commercially reasonable cooperation and assistance to Buyer, without further compensation, throughout Buyer's efforts to properly account for and obtain any necessary regulatory approvals with respect to the purchase of the Project pursuant to the Early Purchase Option or the Final Purchase Option. Notwithstanding anything in this Agreement or any definitive transaction documentation, Buyer shall not be obligated to proceed with the purchase of the Project pursuant to the Early Purchase Option or the Final Purchase Option if Buyer does not receive all necessary regulatory approvals in connection with such transaction. Seller shall put any Person with which it enters into discussions or negotiations regarding a transfer of the Project, or the equity interests in Seller, on notice of the rights of Buyer set forth in this Exhibit 8. Buyer shall be permitted to file a notice of the rights contained in this Exhibit 8 with respect to the Project Site.
- e. Fair Market Value. For purposes of this Exhibit 8, in establishing the Fair Market Value, the independent appraiser must take into account the sum, as of the date of the closing of the purchase, of any obligations to any Lender of Seller or any Affiliate of Seller, including without limitation principal of, premium and interest on indebtedness, fees, expenses or penalties, amounts due upon acceleration, prepayment or restructuring, flip date amounts, pre- and after-tax IRR amounts, swap or interest rate hedging breakage costs and any claims or interest due with respect to any of the foregoing.

EXHIBIT 9
METHODOLOGY FOR ESTIMATING DELIVERIES
IN THE CASE OF METER INACCURACY

The Parties agree that in the event that the Delivery Meter is determined to be inaccurate, the check meter operated by Seller at the Project Delivery Point shall be used first to establish the deliveries. In the event that the Delivery Meter operated by the Transmission Provider and the check meter operated by the Seller are both inaccurate or fail, the Parties agree to use the meter located at the Project to establish the deliveries, with a reduction for line losses incorporated. Upon satisfaction of the condition set forth in Section 3.4(b), the Parties agree to meet and confer in good faith to discuss any changes to this Exhibit 9 that may be requested by Buyer.

Letter of Recommendation to City Council

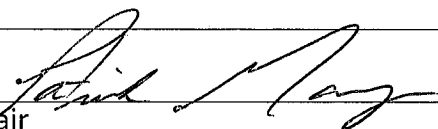
Springville City Board Name: POWER ADVISORY BOARD

Applicant:	Request:	Date of Meeting:
Power Department	Recommendation to participate at a capacity level of 3,000 KW in the Red Mesa Tapaha Solar Project starting in June of 2022. This resource would replace the daytime hours of energy produced by the San Juan Project that is terminating in June 2022.	August 14, 2019

Motion by:	Second by:		
Travis Ball	Clair Anderson		
RECOMMENDATION	☒ APPROVE	☐ DISAPPROVE	OTHER:
CONDITIONS OF APPROVAL:			

Voting Record:

Member Name	APPROVE	DENY	ABSTAIN
Patrick Monney	☒		
Mark Lamoreaux	☒		
Clair Anderson	☒		
Liz Crandall	☒		
Travis Ball	☒		
Rod Andrew	☒		

Chair 

Date 8-14-2019



STAFF REPORT

DATE: August 15, 2019

TO: Honorable Mayor and City Council

FROM: John Penrod, City Attorney

SUBJECT: CONSIDERATION OF APPROVING AN AGREEMENT WITH UTAH'S DEPARTMENT OF ADMINISTRATIVE SERVICES, DIVISION OF FACILITIES AND CONSRUCTION MANAGEMENT, REGARDING IMPROVEMENTS RELATED TO THE DEAF AND BLIND SCHOOL BEING BUILT NEAR THE CLYDE RECREATION CENTER.

RECOMMENDED MOTIONS

Motion to approve Resolution No. _____ that approves an agreement between Utah's Department of Administrative Services, Division of Facilities and Construction Management, which agreement addresses public improvements related to the construction of the Deaf and Blind School being built immediately south of the Clyde Recreation Center.

BACKGROUND

Utah's Department of Administrative Services, Division of Facilities and Construction Management ("DFCM") is constructing a Deaf and Blind School immediately south of the Clyde Recreation Center. The proposed agreement addresses the following three issues related to the project:

1. 900 South Street Widening. DFCM was required to widen 900 South to a minor collector from a commercial local, which widening is from 67 feet to 72 feet. The cost of property and construction for the additional five feet of road is \$28,329.00 and is an upsizing cost for which impact fees have been collected as part of the Transportation Impact Fee Facilities Plan. The agreement offsets DFCM's costs for the additional five feet of road against DFCM's impact fees, which are \$30,491.00. Accordingly, DFCM will be charged \$2,162 for transportation impact fees.
2. Sewer Line. DFCM is required to install approximately 1,750 feet of sewer line. Of that length, 490 feet is upstream of DFCM's sewer connection and helps the sewer system to the east of the school to sewer to the 1500 West sewer main. The cost of the 490 feet is \$46,988.00. Under the agreement, the City pays DFCM the said amount, and DFCM is still on the hook for sewer impact fees, which amount is \$7,601.

3. Water Shares. As part of the project, DFCM is required to tender 4.08 water shares. As a State entity, DFCM has some procurement hurdles to purchase the 4.08 water shares and has asked the City to allow DFCM to pay the City for the shares. The City would then purchase 4.08 water shares. The cost for a water share is somewhere between \$4,000 to \$8,000. The draft agreement currently states that DFCM will pay the City \$6,500 per share for a total of \$26,520, which amount may change before the agreement is executed should the actual cost change.

In an effort to simplify the costs between the two parties, the agreement simply states that the City will pay DFCM the amount of \$10,705 to resolve all of the issues. That amount is calculated as follows: \$46,988 (490 ft sewer line costs) - \$7,601 (DFCM's sewer impact fees) + \$28,329 (900 South widening costs) - \$30,491 (DFCM's street impact fees) - \$26,520 (DFCM's water shares costs) = \$10,705.00.

FISCAL IMPACT

None.

Attachments: Proposed Resolution and Agreement

RESOLUTION #2019-XX

A RESOLUTION APPROVING AN AGREEMENT BETWEEN SPRINGVILLE CITY AND UTAH STATE, DEPARTMENT OF ADMINISTRATIVE SERVICES, DIVISION OF FACILITIES AND CONSTRUCTION MANAGEMENT.

WHEREAS, the State of Utah, Department of Administration Services, Division of Facilities Construction and Management (“DFCM”) is building a Utah School for the Deaf and Blind at the location of 1160 West 900 South in Springville, Utah; and

WHEREAS, as part of constructing the school, among other public improvements and requirements, DFCM is (1) widening 900 South to a minor collector as part of the Impact Fee Facilities Plan, (2) installing sewer pipeline that serves properties upstream of the school, and (3) needing to tender 4.08 water shares, which DFCM is finding it difficult to do based on State procurement policies; and

WHEREAS, the City and DFCM desire to resolve the previous mentioned issues through entering into the attached agreement; and

WHEREAS, the Springville City Council finds that the proposed agreement will benefit the City, is in the public interest, and complies with the law.

NOW, THEREFORE, BE IT RESOLVED BY THE SPRINGVILLE CITY COUNCIL:

SECTION 1. Agreement Approval. The Agreement, substantially in the form attached as Exhibit A, is approved and shall be executed by Springville City. The City Attorney may make minor revisions to the Agreement, as long as the purpose of the Agreement is maintained. No costs within the Agreement may be modified, except the final amount for water shares may be adjusted and approved by the Public Works Director.

SECTION 2. Effective Date. This resolution shall become effective immediately upon passage.

PASSED AND APPROVED this 20th day of August 2019.

Richard J. Child, Mayor

Attest:

Kim Crane, City Recorder

EXHIBIT A

AGREEMENT

THIS AGREEMENT is entered into effective this ____ day of August, 2019, by and between **SPRINGVILLE CITY**, a municipal corporation of the State of Utah, 110 South Main Street, Springville, Utah 84663 ("City") and State of Utah, Department of Administrative Services, Division of Facilities and Construction Management, an agency of the State of Utah, located at ("DFCM").

RECITALS

- A. DFCM is constructing a Utah Schools of Deaf and Blind school in Springville at the approximate location of 1160 West 900 South, Springville, Utah 84663 (the "Project"). A site plan for the project is attached as Exhibit A.
- B. As part of constructing the Project, DFCM shall construct and install certain facilities, infrastructure and improvements on and about the Property (collectively, the "Public Improvements"), including without limitation, sewer lines, electric lines, storm drain lines, roads, and other facilities or improvements necessary to service the Project and to ultimately dedicate the Public Improvements to the City.
- D. DFCM shall design and develop the Property in a manner that is in harmony with and intended to promote the long-range policies, goals and objectives of the City's general plan, zoning, subdivision and development regulations, as more fully set forth below.
- E. DFCM has contested having to install a portion of sewer line, and City has required 900 South to be widened as part of City's Impact Fee Facility Plan.
- E. The purpose of this Agreement is to resolve the issues between the parties.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and terms as more fully set forth below, DFCM and City agree to the following:

1. Recitals Affirmed. The parties each certify the correctness and accuracy of the facts recited above and adopt the same as a statement of their principal reasons for entering this Agreement.

2. Plans, Permits and Approvals; Impact Fees.

A. Plans; Revised Plans. DFCM has prepared detailed construction plans, drawings and specifications (collectively, the “Construction Plans”) for the Public Improvements for the Project, which Construction Plans have been approved by City and are incorporated herein by this reference.

B. Permits and Approvals; Documents. DFCM shall diligently pursue and obtain any and all necessary governmental approvals, permits and the like (collectively, the “Approvals”) for performance of the Project.

C. Impact Fees. DFCM agrees to pay any “Impact Fees” in accordance with the applicable City requirements. Section 6 addresses reimbursement and offset amounts on transportation and sewer impact fees based on certain Public Improvements installed by DFCM. Other than sewer and transportation impact fees, DFCM shall pay all other impact fees in full.

D. Documents. DFCM agrees to provide City with a copy of relevant records and documents relating to the Public Improvements, as reasonably requested by City.

3. Manner of Performance.

A. Compliance with Plans and Laws. DFCM shall pursue the Project to completion (the “Work”) (a) with due diligence, (b) in a good and workmanlike manner, (c) in conformance with the Construction Plans, and (d) in compliance with all applicable laws, statutes, ordinances, resolutions, the Springville Municipal Code (the “City Code”), rules, regulations, and official policies of the City governing the use, density and intensity of the uses of land within the City, and the design, improvement, and public works construction standards and specifications applicable to the development of land within the City. This Agreement does not modify any requirement DFCM has to develop the property pursuant to City Code, including, without limitation, all timing requirements for installing the Public Improvements and all vesting provisions.

B. Materials and Labor. DFCM will furnish all materials, supplies, tools, equipment, labor, and other services necessary for construction and completion of the Project as described herein.

C. Improvement Warranty. Prior to City’s acceptance of the Public Improvements, DFCM shall execute an improvement warranty for the one (1) year improvement warranty period and post a ten percent (10%) cash deposit, surety bond, letter of credit, or other similar security that is acceptable to the City’s City Administrator in accordance with Section 14-5-205 of the City Code.

D. Insurance. DFCM agrees to obtain and maintain general public liability insurance and property damage insurance with City named as an additional insured, at

the rate of Two Million Dollars (\$2,000,000) for each occurrence and Four Million Dollars (\$4,000,000) aggregate during construction of the Project.

E. Inspections. DFCM shall ensure that all inspections necessary for the Public Improvements under the City Code are timely requested. DFCM understands and agrees that failure to request a proper inspection may result in the removal of Public Improvements at the sole cost and expense of DFCM. The City shall perform inspections as soon as possible and otherwise in good faith following the applicable request in accordance with the City Code.

8. Reimbursements.

Sewer Improvements. As shown on the Site Plan, DFCM has installed approximately 490 lineal feet of sewer pipe that the DFCM will not utilize. The additional 490 feet of sewer line will connect the properties to the east of the Project to a sewer line that will allow the properties to the east of the Project to sewer into the 1500 West sewer main. The cost of the 490 foot portion of the sewer line is \$46,988.00.

Street Widening Improvements. The street adjacent and south to the Project is 900 South, a minor collector street. City's Transportation Master Plan and Impact Fee Facilities Plan requires minor collector streets to have a width of 72 feet. DFCM was required to increase the width of 900 South by five feet along the entire south boundary of the Project. The cost for increasing the width by five feet is \$28,329.00, which amount is to be funded by impact fees and will offset the required transportation impact fees to be paid by DFCM to City.

Water Shares. DFCM is required to tender to City 4.08 water shares that are equivalent to Springville Irrigation Company ("SIC") shares. Given Utah State procurement requirements DFCM is required to follow, DFCM has requested to pay City an amount equal to the value of the 4.08 water shares for City to purchase the required water. The parties acknowledge and agree that the value of one SIC water share is \$6,500. The total amount DFCM shall pay City for the water shares is \$26,520.00.

Payments. To settle in full all claims, issues and responsibilities related to sewer and transportation impact fees, the 490 foot sewer line, 900 South street widening and water shares, City shall pay DFCM the amount of \$10,705.00. That amount is calculated as follows:

\$46,988 (490 ft sewer line costs) - \$7,601 (DFCM's sewer impact fees) + \$28,329 (900 South widening costs) - \$30,491 (DFCM's street impact fees) - \$26,520 (DFCM's water shares costs) = \$10,705.00.

Other Fees and Improvements. As stated above, the \$10,705 payment is only to resolve sewer and transportation impact fees, the 490 foot sewer line, 900 South street widening and water shares. DFCM shall pay City all other required permit fees, including, but not limited to, all other impact fees, extension fees, meter fees and street

tree fees. DFCM shall also construct and install all Public Improvements at DFCM's sole cost.

9. **Notices.** Any notice which is required or which may be given pursuant to this Agreement is sufficient if in writing and given by hand-delivery or sent to a party by (i) certified or registered mail, postage prepaid, or (ii) nationally recognized overnight carrier (*e.g.* FEDEX), addressed as first set forth above. A party may change the address for notice to it by giving a notice pursuant to this Section 8.

11. **Authority and Authorization.** DFCM hereby represents and warrants to City that the execution and delivery of this Agreement by DFCM and the performance of the terms hereof by DFCM, have been duly authorized through proper action and, upon full execution hereof, this Agreement will be binding on and enforceable against DFCM.

12. **Future Action.** Nothing in the Agreement shall limit the future exercise of the police power by City in enacting zoning, subdivision, development, transportation, environmental, open space, and related land use plans, policies, ordinances, and regulations after the date of this Agreement; provided, however, that subject to DFCM's performance of its obligations hereunder, DFCM shall have the vested right to develop the Project.

13. **Other Laws.** DFCM may be responsible to fulfill other federal, state and local laws, including, but not limited to Workers Compensation and Occupational Safety and Health Administration regulations. DFCM agrees to comply with all laws during construction of the Project and Public Improvements.

14. **Assignment.** Neither this Agreement nor any of the provisions, terms or conditions hereof can be assigned to any other party, individual or entity without assigning the rights as well as the responsibilities under this Agreement and without the prior written consent of City, which shall not be unreasonably withheld.

15. **Attorney Fees.** In the event this Agreement or any of the exhibits hereto are breached, the party at fault agrees to pay the attorney fees and all costs of enforcement of the non-breaching party.

16. **Severability.** Should any portion or paragraph of this Agreement be declared invalid or unenforceable, the remaining portions or paragraphs of the Agreement shall remain valid and enforceable.

17. **Modification.** Modification of this Agreement shall only be effective if agreed upon, in writing, and approved by the City Council and DFCM.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers.

SPRINGVILLE CITY

Attest:

By: _____
Richard J. Child, Mayor

Kim Crane, City Recorder

**FOXTRIDGE DEVELOPMENT OF
SPRINGVILLE, LLC**

By: _____
Name: _____
Title: _____

HOPEFUL III, LLC

By: _____
Name: _____
Title: _____

STATE OF UTAH)
 :
COUNTY OF UTAH)

On this _____ day of _____, 2019, before me personally appeared _____, known to me to be the person who executed this Development Agreement as the DFCM, on behalf of Foxridge Development of Springville, LLC, and acknowledged to me that he executed the same for the purposes therein stated.

Notary Public

STATE OF UTAH)
 :
COUNTY OF UTAH)

On this _____ day of _____, 2019, before me personally appeared _____, known to me to be the person who executed this Development Agreement as the DFCM, on behalf of Hopeful III, LLC, and acknowledged to me that he executed the same for the purposes therein stated.

Notary Public

STATE OF UTAH)
 :
COUNTY OF UTAH)

On this _____ day of _____, 2019, before me personally appeared Richard J. Child, known to me to be the person who executed this Development Agreement on behalf of Springville City and acknowledged to me that he executed the same for the purposes therein stated.

Notary Public

EXHIBIT A

Sight Plan



STAFF REPORT

DATE: August 15, 2019

TO: Honorable Mayor and City Council

FROM: John Penrod, City Attorney

SUBJECT: CONSIDERATION OF APPROVING AN ORDINANCE THAT AMENDS ORDINANCE NO. 24-2018, WHICH ORDINANCE VACATES A PORTION OF A ROAD IN THE SPRING TERRACE SUBDIVISION.

RECOMMENDED MOTIONS

Motion to approve Ordinance No. _____ that amends Ordinance No. 24-2018 to allow for a portion of a road in the Spring Terrace Subdivision to be vacated through a recorded ordinance, instead of a street vacation plat.

BACKGROUND

On December 18, 2018, the City Council held a public hearing to determine whether a portion of a road in the Spring Terrace Subdivision should be vacated as shown below.



After holding the public hearing, the City Council found that, in accordance with Springville City Code and State law, there was good cause to vacate the road and neither the public interest nor any person would be materially injured by the vacation of the road. The City approved Ordinance No. 24-2018 that allowed the Mayor to sign a street vacation plat to vacate the subject road.

Since Ordinance No. 24-2018 was passed, the applicant has struggled to draft a street vacation plat for recordation. Section 10-9a-609.5 of the Utah Code Annotated allows for a street to be vacated by either a street vacation plat, an ordinance, or both. The proposed ordinance amends Ordinance No. 24-2018 by allowing the portion of the street in the Spring Terrace Subdivision to be vacated through recording an ordinance, not requiring a street vacation plat. Nothing else in the proposed ordinance has changed from Ordinance No. 24-2018, including the legal description.

FISCAL IMPACT

None.

Attachments: Proposed Ordinance

ORDINANCE XX-2019

AN ORDINANCE VACATING A PORTION OF SPRING TERRACE AVENUE, LOCATED SOUTH OF 1350 EAST.

WHEREAS, the Spring Terrace Subdivision (the “Subdivision”) was recorded in the Utah County Recorder’s Office in 1959; and

WHEREAS, Spring Terrace Avenue is a public street within the Subdivision that has never been constructed nor installed south of 1350 East, which unimproved portion of Spring Terrace Avenue is more particularly described on the legal description attached as Exhibit A (“Spring Terrace Ave”); and

WHEREAS, in accordance with Section 14-7-101 of the Springville City Code and Section 10-9a-609.5 of the Utah Code Annotated, the owners of lots 7, 8, and 9 of the Subdivision have petitioned Springville’s City Council to vacate the described undeveloped portion of Spring Terrace Ave because the property owners of lots 7, 8, and 9 of the Subdivision desire to develop their lots, using 1350 East as the frontage for the lots; and

WHEREAS, no underground facilities or utilities exist within the portion of Spring Terrace Ave described above; and

WHEREAS, in compliance with Section 10-9a-208 of the Utah Code, Springville City posted the required notice for the date and time of the public hearing on this ordinance at least 10 days before the public hearing by publishing the notice in a newspaper of general circulation and on the Utah Public Notice Website, mailing written notice to each record owner of each parcel that is accessed by the Spring Terrace Ave and each affected entity, and posting notice on or near Spring Terrace Ave; and

WHEREAS, a public hearing was held on December 18, 2018, to consider public input concerning the proposed vacation of the above described portion of Spring Terrace Ave; and

WHEREAS, in accordance with Section 10-9a-609.5 of the Utah Code and Section 14-7-101 of the Springville City Code, the City Council finds that good cause exists for vacating the above described portion of Spring Terrace Ave and neither the public interest nor any person will be materially injured by the vacation.

NOW, THEREFORE, be it ordained by the Springville City Council of the City of Springville, Utah, as follows:

SECTION 1. The portion of Spring Terrace Avenue located south of 1350 East, more particularly described in Exhibit A attached hereto, is hereby vacated.

SECTION 2. This ordinance shall take effect immediately after being posted or published as required by law.

SECTION 3. The vacation of the portion of Spring Terrace Avenue approved in this Ordinance shall take effect upon the effective date of this Ordinance being recorded, as a revocation of the acceptance of and the relinquishment of Springville City's fee in the vacated portion of Spring Terrace Avenue.

PASSED AND APPROVED this 20th day of August, 2019.

SPRINGVILLE CITY

MAYOR RICHARD J. CHILD

ATTEST:

KIM CRANE
CITY RECORDER

Exhibit "A"

SPRINGVILLE CITY SPRING TERRACE AVENUE ROAD VACATION AND ABANDONMENT

Street Vacation Legal Description

Portions of street(s) to be vacated

Beginning at a point on the southerly right-of-way line of an undeveloped 50 (fifty) ft. wide street known as Spring Terrace Avenue (as shown on the official recorded plat of the Spring Terrace Subdivision, Springville, Utah), which beginning point is described as being South 1126.01 ft. and West 1860.91 ft. from the Northeast Corner of Section 3, Township 8 South, Range 3 East, Salt Lake Base and Meridian; (using NAD 27 bearings of section lines as published by the Utah County Surveyor's office):

Thence on the easterly line of 620 South Street (the so-called Red Devil Drive) North 20° 28' 21" East a distance of 92.59 ft; thence North 88° 57' 04" East 10.47 ft; thence South 20° 41' West 44.07 ft; thence on the northerly line of the said portion of Spring Terrace Avenue South 39° 07' East 377.86 ft. to the southeasterly end of said avenue; thence South 58° 03' West 50.39 ft. to the southerly line of said avenue; thence on the southerly line of said avenue North 39° 07' West 353.33 ft. to the point of beginning.