

THE COMMUNITY RENEWABLE ENERGY BOARD
RESOLUTION NO. 22-06

**A RESOLUTION OF THE BOARD AUTHORIZING THE CHAIR TO EXECUTE
AGREEMENTS FOR DIVISION OF PUBLIC UTILITIES AND OFFICE OF
CONSUMER SERVICES CONSULTING FEES**

WHEREAS, the Community Renewable Energy Board (“Board”) met in a special meeting on July 11, 2022, to consider entering into a Memorandum of Understanding (“MOU”) between the Community Renewable Energy Agency (“Agency”), PacifiCorp, d/b/a Rocky Mountain Power (“RMP”), the Division of Public Utilities (“Division”), and the Office of Consumer Services (“Office”), and a Third-Party Expertise Agreement (“Agreement”) between the Agency and RMP; and

WHEREAS, the Agency was formed by several public entities (the “Participating Communities”) pursuant to the Interlocal Cooperation Agreement Among Public Entities Regarding the Community Renewable Energy Program (the “Interlocal”); and

WHEREAS, pursuant to the Community Renewable Energy Act, codified at Utah Code § 54-17-901 *et seq.* (the “Act”), a municipality or county who wishes to participate in a community renewable energy program (“Program”) must pay for “third-party expertise contracted for by the [D]ivision and the [O]ffice”; and

WHEREAS, the Division and the Office have agreed that such third-party expenses will not exceed \$100,000 each and will not exceed \$200,000 total; and


WHEREAS, of the \$700,000 that Participating Communities have agreed to pay by executing the Interlocal, \$200,000 are budgeted for such third-party expenses.

NOW, THEREFORE, BE IT RESOLVED by the Board that the Chair is authorized, on behalf of the Participating Communities, to execute the MOU and the Agreement attached hereto as Exhibits A and B, respectively.

This Resolution assigned No. 22-06, shall take effect immediately.

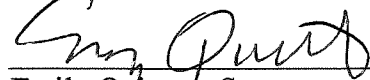
PASSED AND APPROVED by the Board this 11th day of July 2022.

**COMMUNITY RENEWABLE ENERGY
BOARD**



Dan Dugan, Chair

ATTEST:



Emily Quinton, Secretary

Exhibit A

**MEMORANDUM OF UNDERSTANDING REGARDING
PAYMENT FOR THIRD-PARTY EXPERTISE**

This MEMORANDUM OF UNDERSTANDING REGARDING PAYMENT FOR THIRD-PARTY EXPERTISE (this “Memorandum”) is entered into by and between the Community Renewable Energy Agency (“Agency”), Rocky Mountain Power, an unincorporated division of PacifiCorp, an Oregon corporation (the “Company”), the Division of Public Utilities created in Utah Code § 54-4a-1 (“Division”), and the Office of Consumer Services created in Utah Code § 54-10a-101 (“Office”).

RECITALS

- A. In 2019, the Utah State Legislature enacted H.B. 411 that was codified at Utah Code Ann. § 54-17-901 *et seq.* and is known as the “Community Renewable Energy Act” (“Act”).
- B. The Act authorizes a community renewable energy program (“Program”) to be proposed in an application (“Application”) to be filed by a qualified utility for approval by the Public Service Commission of Utah (“Commission”). The Company is the qualified utility relevant to this Program.
- C. Upon Commission approval of the Program, RMP will be authorized to provide electric service from one or more “renewable energy resources” as defined by the Act (“Renewable Resources”) to end-use customers within the Participating Communities that participate in the Program (“Participating Communities”).
- D. The Act sets forth various requirements for a municipality, county or town (“Community”) that seeks to enable the Company to provide electric service pursuant to the Program to end-use customers located within the Community. These include:
 - 1. Pursuant to Utah Code § 54-17-903(2)(a), the Community must adopt a resolution no later than December 31, 2019, that states a goal of achieving an amount equivalent to 100% of the annual electric energy supply for participating customers from a renewable energy resource by 2030 (“Program Resolution”);
 - 2. Pursuant to Utah Code § 54-17-903(2)(b)(i)(A), the Community must enter into an agreement (“Third-Party Expertise Agreement”) with a qualified utility with the stipulation of payment by the Community to the qualified utility for the costs of third-party expertise contracted for by the Division and the Office, for assistance with activities associated with initial approval of the Program (each such person or entity retained to provide such third-party expertise, a “Consultant”);
- E. The Act, as supplemented by rules adopted by the Commission and set forth at Utah Administrative Code R746-314 (“Rules”), require the Communities that adopted the

Program Resolution to adopt a governance agreement to establish a decision-making process to ensure that the Communities will be able to reach a single joint decision on necessary Program issues;

- F. Consistent with the Act and the Rules, certain of the Communities have established the Agency and a decision-making process concerning Program issues pursuant to that Interlocal Cooperation Agreement entered into pursuant to the Interlocal Cooperation Act, Utah Code Ann. § 11-13-101 *et seq.* (the “Governance Agreement”);
- G. The Communities that have adopted the Program Resolution and that have entered into the Governance Agreement are listed in Appendix A hereto (the “Listed Entities”);
- H. Consistent with the requirements of the Governance Agreement, and to satisfy the requirements of the Act, the Agency (on behalf of the Listed Entities) and the Company have entered into the required Third-Party Expertise Agreement with an effective date contemporaneous with this Memorandum; and
- I. This Memorandum addresses invoicing, practices, and procedures regarding the payments and reimbursements to be made for Consultants as contemplated by Utah Code § 54-17-903(2)(b)(1)(a).

TERMS

Section 1. Term of Agreement.

This Memorandum shall be effective as of _____ (“Effective Date”) and shall remain in effect until all payments contemplated by the Third-Party Expertise Agreement have been made.

Section 2. Third-Party Expertise Agreement.

Pursuant to Utah Code § 54-17-903(2)(b)(i)(A), the Listed Entities are obligated to enter into an agreement with the Company to pay for third-party consulting fees incurred by the Division and the Office associated with the initial approval of the Program. The Agency, on behalf of each of the Listed Entities, and the Company have entered into such a Third-Party Expertise Agreement with an effective date that is contemporaneous to the Effective Date herein.

Section 3. Engagement of Third-Party Expertise

The Division and the Office currently expect to engage third-party Consultants to assist them in discussions and proceedings related to the development and initial approval of the Program. The Division and the Office shall have complete discretion in deciding whether to engage third-party Consultants to assist with the activities associated with initial approval of the Program, which Consultants to engage, and the services to be performed by the Consultants, and neither the Agency nor the Company shall have any input or oversight into the process by which the Division and the Office engage such Consultants or how the Consultants perform such services.

If the Division and/or the Office engage third-party Consultants to assist with activities associated with initial approval of the Program, each entity shall exercise sole discretion in setting the rates and terms of service for such Consultant. Each entity shall likewise have sole discretion in implementing policies and procedures to define the relationship between the entity and the Consultant it hires, including procedures for the submission of invoices for work performed. Each entity shall have sole discretion in reviewing and approving the invoices submitted by such Consultant. In exercising this discretion, each entity shall apply the same methods and standards of care exercised in other dockets before the Commission in which the agency engages expert consultants and approves invoices.

Notwithstanding the foregoing, neither the Agency nor the Company shall be obligated to the Division or the Office for any fees or expenses charged by Consultants that are not actually incurred in connection with the initial development and approval of the Program.

Section 4. Third-Party Expenses.

In the event that the Division and/or the Office engage third-party Consultants for assistance in the initial development and approval of the Program, each entity agrees not to seek reimbursement of expenses for such third-party expertise as contemplated by Utah Code § 54-17-903(2)(b)(i)(A) in an amount in excess of \$100,000 for each entity.

Section 5. Process for Payment of Third-Party Expenses.

Utah Code § 54-17-903(2)(b)(i)(A) requires the Listed Entities to pay to the Company the amounts incurred by the Division and the Office for third-party expertise regarding the initial approval of the Program. The Parties agree to utilize the following process to facilitate payment by the Listed Entities, through the Agency, to the Company for amounts incurred by the Division and the Office for such third-party expertise.

- 5.1 After receipt of an invoice from a Consultant, the Division or Office shall review and approve that invoice consistent with its typical methods and standards of care. Such invoice shall be approved and submitted by the Division or Office for payment under this Memorandum only to the extent it is for assistance with activities associated with initial approval of the Program as contemplated by the Act, and submission of an approved invoice for payment under this Memorandum shall constitute a representation to that effect by the Division or the Office, as applicable. Each entity shall then prepare a summary invoice to submit to the Company. The summary invoice may include as much information as each entity deems appropriate, but need not contain any information other than (a) the Consultant's name, (b) the Consultant's hourly rate, (c) the total hours billed by the Consultant for the invoice, (d) the total invoice amount to be paid. The summary invoice need not include a description of the services performed or the hours associated with any individual task.

- 5.2 Summary invoices shall be submitted to the Company's State Regulatory Affairs Manager for Utah, currently Jana Saba, via email jana.saba@pacificorp.com, with a copy to the Agency via email to the following for the Agency:

Treasurer: Jeff Silvestrini (jsilvestrini@millcreek.us),
Chair: Dan Dugan (Daniel.Dugan@slcgov.com), and
Copy to: Christopher Thomas (Christopher.Thomas@slcgov.com).

With the first summary invoice submitted, the Division or Office, as applicable, will provide a copy of the W-9 form attached hereto as Appendix B, which the Division or Office shall ensure has been completed by its Consultant.

- 5.3 Within 30 days of its receipt of the summary invoice pursuant to this Section, the Company shall remit payment by check to the consultant identified in the summary invoice.
- 5.4 Within 20 days of its receipt of the summary invoice pursuant to this Section, the Agency shall remit payment by check to the Company consistent with the provisions of the Third-Party Expertise Agreement.

Section 6. Representations and Warranties.

On the Effective Date, each Party represents, warrants and covenants to the other Party that:

- (a) The execution, delivery and performance of this Memorandum are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (b) This Memorandum constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses;
- (c) There is not pending, or to its knowledge, threatened against it, any legal proceedings that could materially adversely affect its ability to perform under this Memorandum;
- (d) It is acting for its own account and its decision to enter into this Memorandum is based upon its own judgment, not in reliance upon the advice or recommendations of the other Party, and it is capable of assessing the merits of and understanding, and understands and accepts the terms, conditions and risks of this Memorandum; and
- (e) It has not relied upon any promises, representations, statements or information of any kind whatsoever that are not contained in this Memorandum in deciding to enter into this Memorandum.

Section 7. Governing Law; Jurisdiction; Venue.

All provisions of this Memorandum and the rights and obligations of the Parties shall in all cases be governed by and construed in accordance with the laws of the State of Utah applicable to contracts executed in and to be wholly performed in Utah by persons domiciled in the State of Utah. Each Party agrees that any dispute relating to this Memorandum shall be brought before the Commission or a court located within the State of Utah with jurisdiction over such dispute, and each Party consents to the exclusive jurisdiction of such court or Commission (and the appellate courts therefrom) in any such suit, action or proceeding. Furthermore, each party waives, to the extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such forum or that any such suit, action or proceeding which is brought in any such forum has been brought in any inconvenient forum.

Section 8. Waiver of Jury Trial.

To the fullest extent permitted by law, each of the Parties hereto waives any right it may have to a trial by jury in respect of any litigation directly or indirectly arising out of, under or in connection with this Memorandum. Each Party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

Section 9. Default; Remedies; Waiver

Either Party may exercise any or all of its right and remedies under this Memorandum and under any applicable laws, rules and regulations. Under no circumstances shall either Party be liable for any special, indirect, incidental, consequential, punitive, or exemplary damages. No provision of this Memorandum shall be deemed to have been waived unless such waiver is in writing signed by the waiving Party. No failure by any Party to insist upon the strict performance of any provision of this Memorandum or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of such provision or of any other provision. No waiver of any provision of this Memorandum shall be deemed a waiver of any other provision of this Memorandum or a waiver of such provision with respect to any subsequent breach, unless expressly provided in writing.

Section 10. Communications and Notice

Any notice required or desired to be given hereunder by one Party to the other Party shall be sent by hand-delivery, by courier service, electronic mail or by registered or certified mail, return receipt requested, to the other Party at the address set forth below:

If to the Division: Division of Public Utilities
 Attention: Chris Parker, Director
 160 East 300 South, 4th Floor
 P.O. Box 146751
 Salt Lake City, UT 84114-6741
 chrisparker@utah.gov

If to the Office: Office of Consumer Services
Attention: Michele Beck,
160 East 300 South, Room 201
P.O. Box 146782
Salt Lake City, UT 84114-6782
mbeck@utah.gov

If to Company: Rocky Mountain Power
Attention: Jana Saba
State Regulatory Affairs Manager – Utah
1407 W. North Temple, Suite 330
Salt Lake City, Utah 84116
jana.saba@pacificorp.com

With a copy to: Rocky Mountain Power
Attention: Legal Department
1407 W. North Temple, Suite 330
Salt Lake City, Utah 84116

If to Agency: Community Renewable Energy Agency
Attention: Emily Quinton, Secretary
Dan Dugan, Chair
3330 South 1300 East
Millcreek, UT 84106

With a copy to: James Dodge Russell & Stephens, P.C.
Attention: Phillip Russell
10 W. Broadway, Suite 400
Salt Lake City, UT 84101
prussell@jdrslaw.com

Any Party may modify the contact persons or addresses at which the Party is to receive notice by delivering a written notice of the change to all other Parties in a manner consistent with this Section.

Section 11. Counterparts.

This Memorandum may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same instrument. Each Party agrees that electronic signatures in this Memorandum, whether by facsimile, by electronic mail in “portable document format” (.pdf) or similar format, or by digital or encrypted electronic signature software, have the same force and effect as manual signatures. Electronic signatures of the Parties shall be deemed to constitute original signatures, and copies hereof shall be deemed to constitute duplicate originals.

Section 12. Modification/Amendment.

Any modification, extension or amendment to this Memorandum must be in writing, having direct reference to this Memorandum and must be executed by duly authorized representatives of the Parties. The Agency and the Company anticipate entering into one or more other agreements related to the development and operation of the Program. This Memorandum shall survive and not be superseded by any such subsequent agreements unless expressly indicated consistent with this provision.

Section 13. Integration; Amendment.

All terms and conditions heretofore made or agreed to with respect to the subject matter of this Memorandum are merged into this Memorandum, and no previous or contemporary representation or agreement made by any officer, agent or employee of Company or Agency shall be binding upon either Party unless contained herein. Except as otherwise expressly provided, this Memorandum may be modified only by a subsequent written amendment or agreement executed among the Parties.

Section 14. Miscellaneous.

(a) This Memorandum contains the entire agreement relating to the subject matter hereof and supersedes all proposals, negotiations, representations, warranties, conditions and agreements, collateral or otherwise, oral or written, made prior to the execution of this Memorandum relating to the subject matter hereof.

(b) This Memorandum shall be construed without regard to the identity of the Party that drafted the provisions of this Memorandum and each and every provision of this Memorandum shall be construed as though the Parties participated equally in drafting such provisions.

(c) This Memorandum, and the rights and obligations hereunder, shall inure to the benefit of, and be enforceable against, any and all of each Party's successors (including a successor by any amalgamation of a Party) and permitted assigns.

(d) Each Party shall, in good faith, take all reasonable actions necessary to permit each Party to fulfill its obligations under this Memorandum. Where the consent, agreement or approval shall not be unreasonably withheld, conditioned or delayed. Where either Party is required or permitted to act or omit to act based on its opinion or judgment, such opinion or judgment shall not be unreasonably exercised.

(e) The provisions of this Memorandum that by their nature are intended to survive the termination, cancellation, completion, or expiration of this Memorandum shall continue as a valid and enforceable obligation of the Party notwithstanding any such termination, cancellation, completion, or expiration.

[Signature page follows]

The Parties hereto have caused this Memorandum of Understanding to be executed by persons duly authorized.


DIVISION OF PUBLIC UTILITIES

By: _____
Name: _____
Title: _____
Date: _____

OFFICE OF CONSUMER SERVICES

By: _____
Name: _____
Title: _____
Date: _____

**COMMUNITY RENEWABLE
ENERGY AGENCY**

By: 
Name: DANIEL E. DUGAN
Title: CHAIR
Date: 11 JUN 2022

ROCKY MOUNTAIN POWER

By: _____
Name: _____
Title: _____
Date: _____

APPENDIX A
“LISTED ENTITIES”

The Listed Entities set forth below timely adopted the Program Resolution required by Utah Code § 54-17-903(2)(a) and have joined or are eligible to join the Agency:

Listed Entities

Coalville City
Cottonwood Heights
Emigration Canyon Township
Francis City
Grand County
City of Holladay
Kearns
Millcreek
Moab City
Oakley City
Ogden City
Park City
Salt Lake City
Salt Lake County
Springdale City
Summit County
Town of Alta
Town of Castle Valley

Exhibit B

AGREEMENT FOR PAYMENT FOR THIRD-PARTY EXPERTISE

between

COMMUNITY RENEWABLE ENERGY AGENCY

and

ROCKY MOUNTAIN POWER

This AGREEMENT FOR PAYMENT FOR THIRD-PARTY EXPERTISE (this “Agreement”) is entered into by and between the Community Renewable Energy Agency (“Agency”) and Rocky Mountain Power, an unincorporated division of PacifiCorp, an Oregon corporation (the “Company”) (the Agency and the Company are each a “Party” and are referred to herein collectively as the “Parties”).

RECITALS

- A. In 2019, the Utah State Legislature enacted H.B. 411 that was codified at Utah Code Ann. § 54-17-901 *et seq.* and is known as the “Community Renewable Energy Act” (“Act”).
- B. The Act authorizes a community renewable energy program (“Program”) to be proposed in an application (“Application”) to be filed by a qualified utility for approval by the Commission. The Company is the qualified utility relevant to this Program.
- C. Upon Commission approval of the Program, the Company will be authorized to provide electric service from one or more “renewable energy resources” as defined by the Act (“Renewable Resources”) to end-use customers within the Participating Communities that participate in the Program (“Participating Communities”).
- D. The Act sets forth various requirements for a municipality, county or town (“Community”) that seeks to enable the Company to provide electric service pursuant to the Program to end-use customers located within the Community. These include:
 - 1. Pursuant to Utah Code § 54-17-903(2)(a), the Community must adopt a resolution no later than December 31, 2019, that states a goal of achieving an amount equivalent to 100% of the annual electric energy supply for participating customers from a renewable energy resource by 2030 (“Program Resolution”);
 - 2. Pursuant to Utah Code § 54-17-903(2)(b)(i)(A), the Community must enter into an agreement with a qualified utility with the stipulation of payment by the Community to the qualified utility for the costs of third-party expertise contracted for by the Division of Public Utilities (“Division”) and the Office of Consumer Services (“Office”), for assistance with activities associated with initial approval of the Program (“Third-Party Expertise Agreement”);

- E. The Act, as supplemented by rules adopted by the Commission and set forth at Utah Administrative Code R746-314 (“Rules”), require the Communities that adopted the Program Resolution to adopt a governance agreement to establish a decision-making process to ensure that the Communities will be able to reach a single joint decision on necessary Program issues;
- F. Consistent with the Act and the Rules, certain of the Communities have established the Agency and a decision-making process concerning Program issues pursuant to that Interlocal Cooperation Agreement entered into pursuant to the Interlocal Cooperation Act, Utah Code Ann. § 11-13-101 *et seq* (the “Governance Agreement”); and
- G. The Communities that have adopted the Program Resolution and that have entered into the Governance Agreement are listed in Appendix A hereto (the “Listed Entities”);
- H. Consistent with the requirements of the Governance Agreement, and to satisfy the requirements of the Act, the Agency (on behalf of the Listed Entities) and the Company hereby enter into the following Agreement.

TERMS

Section 1. Term of Agreement.

This Agreement shall be effective as of _____ (“Effective Date”) and shall remain in effect until all payments contemplated by this Agreement have been made.

Section 2. Third-Party Expenses.

A Memorandum of Understanding (“MOU”) has been reached between the Division, the Office, the Company, and the Agency. The MOU sets forth various understandings between the Division, the Office, the Company and the Agency, on behalf of each of the Listed Entities, regarding the process and procedures for the payment of third-party expenses incurred by the Division and the Office for assistance associated with the initial approval of the Program. As set forth in the MOU, the Division and the Office have agreed that consulting fees associated with the initial approval of the Program for which they will seek payment pursuant to this Agreement will not exceed \$100,000 for each entity. Consistent with this separate agreement, the Agency has budgeted a total of \$200,000 for purposes of this Agreement.

Section 3. Stipulation of Payment of Third-Party Expenses.

The Agency hereby stipulates that it will pay to the Company up to \$100,000 for consulting fees incurred by the Division and up to \$100,000 for consulting fees incurred by the Office for third-party expertise contracted for by the Division and the Office for assistance with activities associated with initial approval of the Program as contemplated by the Act.

Section 4. Process for Payment of Third-Party Expenses.

The process for payment of the invoicing and payment of third-party expenses is set forth in full in the MOU. Consistent with the MOU, the Division and the Office will submit to the Company, with a copy to the Agency, a summary invoice identifying the approved amount incurred for consulting fees related to the evaluation of the Program. For purposes of this Agreement, the Agency and the Company agree as follows:

Within 30 days of its receipt of each summary invoice from the Office or the Division, the Company shall remit payment by check to the consultant identified in the summary invoice. The Company shall not be obligated to pay more than \$100,000 to the Division or more than \$100,000 to the Office (or \$200,000 total) for third-party expertise contemplated under this Agreement.

Within 20 days of its receipt of the summary invoice from the Office or the Division, the Agency shall pay the Company the full amount owed for each such summary invoice. The Agency shall not be obligated to pay the Company more than \$100,000 for invoices submitted by the Division or more than \$100,000 for invoices submitted by the Office (or \$200,000 total) for third-party expertise contemplated under this Agreement. Payments shall be paid by check mailed to Company as follows:

PacifiCorp
Attn: Central Cashiers Office
825 NE Multnomah, Suite 550
Portland, OR 97232

Section 5. Representations and Warranties.

On the Effective Date, each Party represents, warrants and covenants to the other Party that:

(a) The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it;

(b) This Agreement constitutes a legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses;

(c) There is not pending, or to its knowledge, threatened against it, any legal proceedings that could materially adversely affect its ability to perform under this Agreement;

(d) It is acting for its own account and its decision to enter into this Agreement is based upon its own judgment, not in reliance upon the advice or recommendations of the other Party, and it is capable of assessing the merits of and understanding, and understands and accepts the terms, conditions and risks of this Agreement; and

(e) It has not relied upon any promises, representations, statements or information of any kind whatsoever that are not contained in this Agreement in deciding to enter into this Agreement.

Section 6. Governing Law; Jurisdiction; Venue.

All provisions of this Agreement and the rights and obligations of the Parties shall in all cases be governed by and construed in accordance with the laws of the State of Utah applicable to contracts executed in and to be wholly performed in Utah by persons domiciled in the State of Utah. Each Party agrees that any dispute relating to this Agreement shall be brought before the Commission or a federal or state court located within the State of Utah with jurisdiction over such dispute, and each Party consents to the exclusive jurisdiction of such court or Commission (and the appellate courts therefrom) in any such suit, action or proceeding. Furthermore, each party waives, to the extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such forum or that any such suit, action or proceeding which is brought in any such forum has been brought in any inconvenient forum.

Section 7. Waiver of Jury Trial.

To the fullest extent permitted by law, each of the Parties hereto waives any right it may have to a trial by jury in respect of any litigation directly or indirectly arising out of, under or in connection with this Agreement. Each Party further waives any right to consolidate any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived.

Section 8. Default; Remedies; Waiver

Either Party may exercise any or all of its right and remedies under this Agreement and under any applicable laws, rules and regulations. Under no circumstances shall either Party be liable for any special, indirect, incidental, consequential, punitive, or exemplary damages. No provision of this Agreement shall be deemed to have been waived unless such waiver is in writing signed by the waiving Party. No failure by any Party to insist upon the strict performance of any provision of this Agreement or to exercise any right or remedy consequent upon a breach thereof, shall constitute a waiver of any such breach of such provision or of any other provision. No waiver of any provision of this Agreement shall be deemed a waiver of any other provision of this Agreement or a waiver of such provision with respect to any subsequent breach, unless expressly provided in writing.

Section 9. Communications and Notice

Any notice required or desired to be given hereunder by one Party to the other Party shall be sent by hand-delivery, by courier service, electronic mail or by registered or certified mail, return receipt requested, to the other Party at the address set forth below:

If to Company: Rocky Mountain Power
Attention: Jana Saba
State Regulatory Affairs Manager – Utah
1407 W. North Temple, Suite 330
Salt Lake City, Utah 84116
jana.saba@pacificorp.com

With a copy to: Rocky Mountain Power
Attention: Legal Department
1407 W. North Temple, Suite 330
Salt Lake City, Utah 84116

If to Agency: Community Renewable Energy Agency
Attention: Emily Quinton, Secretary
Dan Dugan, Chair
3330 South 1300 East
Millcreek, UT 84106

With a copy to: James Dodge Russell & Stephens, P.C.
Attention: Phillip Russell
10 W. Broadway, Suite 400
Salt Lake City, UT 84101
prussell@jdrslaw.com

Either Party may modify the contact persons or addresses at which the Party is to receive notice by delivering a written notice of the change to the other Party in a manner consistent with this Section.

Section 10. Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same instrument. Each Party agrees that electronic signatures in this Agreement, whether by facsimile, by electronic mail in “portable document format” (.pdf) or similar format, or by digital or encrypted electronic signature software, have the same force and effect as manual signatures. Electronic signatures of the Parties shall be deemed to constitute original signatures, and copies hereof shall be deemed to constitute duplicate originals.

Section 11. Modification/Amendment.

Any modification, extension or amendment to this Agreement must be in writing, having direct reference to this Agreement and must be executed by duly authorized representatives of the Parties. The Agency and the Company anticipate entering into one or more other agreements related to the development and operation of the Program. This Agreement shall survive and not be superseded by any such subsequent agreements unless expressly indicated consistent with this provision.

Section 12. Integration; Amendment.

All terms and conditions heretofore made or agreed to with respect to the subject matter of this Agreement are merged into this Agreement, and no previous or contemporary representation or agreement made by any officer, agent or employee of Company or Agency shall be binding upon either Party unless contained herein. Except as otherwise expressly provided, this Agreement may be modified only by a subsequent written amendment or agreement executed by both Parties.

Section 13. Miscellaneous.

(a) This Agreement contains the entire agreement relating to the subject matter hereof and supersedes all proposals, negotiations, representations, warranties, conditions and agreements, collateral or otherwise, oral or written, made prior to the execution of this Agreement relating to the subject matter hereof.

(b) This Agreement shall be construed without regard to the identity of the Party that drafted the provisions of this Agreement and each and every provision of this Agreement shall be construed as though the Parties participated equally in drafting such provisions.

(c) This Agreement, and the rights and obligations hereunder, shall inure to the benefit of, and be enforceable against, any and all of each Party's successors (including a successor by any amalgamation of a Party) and permitted assigns.

(d) Each Party shall, in good faith, take all reasonable actions necessary to permit each Party to fulfill its obligations under this Agreement. Where the consent, agreement or approval shall not be unreasonably withheld, conditioned or delayed. Where either Party is required or permitted to act or omit to act based on its opinion or judgment, such opinion or judgment shall not be unreasonably exercised.


(e) The provisions of this Agreement that by their nature are intended to survive the termination, cancellation, completion, or expiration of this Agreement shall continue as a valid and enforceable obligation of the Party notwithstanding any such termination, cancellation, completion, or expiration.

[Signature page follows]

The Parties hereto have caused this Agreement for Payment For Third-Party Expertise to be executed by persons duly authorized.

**COMMUNITY RENEWABLE
ENERGY AGENCY**

ROCKY MOUNTAIN POWER

By: 
Name: DANIEL E DUGAN
Title: CHAIR
Date: 17 June 2022

By: _____
Name: _____
Title: _____
Date: _____

APPENDIX A

“LISTED ENTITIES”

The Listed Entities set forth below timely adopted the Program Resolution required by Utah Code § 54-17-903(2)(a) and have joined or are eligible to join the Agency:

Listed Entities

Coalville City
Cottonwood Heights
Emigration Canyon Township
Francis City
Grand County
City of Holladay
Kearns
Millcreek
Moab City
Oakley City
Ogden City
Park City
Salt Lake City
Salt Lake County
Springdale City
Summit County
Town of Alta
Town of Castle Valley