

June 17, 2021

The Honorable Kimberly D. Bose  
Secretary  
Federal Energy Regulatory Commission  
888 First Street, N.E.  
Washington, DC 20426

RE: *PacifiCorp*  
Docket No. ER 21-\_\_\_\_\_-000

Dear Secretary Bose:

Pursuant to Section 205 of the Federal Power Act (“FPA”)<sup>1</sup>, Part 35 of the Federal Energy Regulatory Commission’s (“Commission”) regulations,<sup>2</sup> and Order No. 714<sup>3</sup> regarding electronic filing of tariff submittals, PacifiCorp hereby tenders for filing the following jurisdictional agreement:

Project Construction Agreement Project Title: Heber Light and Power 2<sup>nd</sup> Point of Delivery / Daniels Substation (“Construction Agreement”) between Heber Light & Power Company (“HLP”) and PacifiCorp, to be designated as PacifiCorp Rate Schedule No. 757.

As discussed further below, PacifiCorp respectfully requests the Commission accept this Construction Agreement effective August 17, 2021.

## **1. Background and Reason for Filing**

On February 10, 2014, HLP, through Utah Associated Municipal Power Systems (“UAMPS”), request an additional Point of Delivery (“POD”) under the Fifth Amended and Restated Transmission Service and Operating Agreement (“ARTSOA”) between UAMPS and PacifiCorp.

To complete HLP’s request, a new ring-bus substation is required to be built on PacifiCorp’s Jordanelle – Midway 138 kV transmission line. Communications equipment to tie the new substation into the existing PacifiCorp communications network is also required. PacifiCorp has agreed to perform the work and the Construction Agreement sets forth the terms and conditions to complete the work. PacifiCorp respectfully requests that the Commission accept the Construction Agreement, attached hereto, for filing.

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<sup>1</sup> 16 U.S.C. § 824d.

<sup>2</sup> 18 C.F.R. Part 35.

<sup>3</sup> *Electronic Tariff Filings*, Order No. 714, 124 FERC ¶ 61,270 (2008).

Accordingly, PacifiCorp respectfully requests that the Commission accept the Construction Agreement, attached hereto, for filing.

**2. Effective Date and Request for Waiver**

In accordance with 18 C.F.R. § 35.3(a)(1), PacifiCorp respectfully requests that the Commission establish an effective date of August 17, 2021, for the Construction Agreement.

To the extent that any filing requirement in Part 35 of the Commission's regulations is not satisfied by this filing and the materials enclosed herewith, PacifiCorp respectfully requests waiver of such requirements.

**3. Designation**

PacifiCorp requests that the Construction Agreement be designated as PacifiCorp Rate Schedule No. 757.

**4. Enclosure**

The following enclosure is attached hereto:

Construction Agreement between HLP and PacifiCorp, to be designated as PacifiCorp Rate Schedule No. 757.

**5. Communications**

All communications and correspondence regarding this filing should be forwarded to the following persons:

Matthew P. Loftus  
Senior Counsel  
PacifiCorp  
825 N.E. Multnomah, Suite 1600  
Portland, OR 97232  
(503) 813-6642  
[Matthew.Loftus@PacifiCorp.com](mailto:Matthew.Loftus@PacifiCorp.com)

Rick Vail  
Vice President, Transmission  
PacifiCorp  
825 N.E. Multnomah, Suite 1600  
Portland, OR 97232  
(503) 813- 6938  
[Richard.Vail@PacifiCorp.com](mailto:Richard.Vail@PacifiCorp.com)

**6. Notice**

Pursuant to 18 C.F.R. § 35.2(e), a copy of this filing is being served on the following:

Heber Light & Power Company  
Jason Norlen  
31 South 100 West  
Heber City, UT 84032  
[jnorlen@heberpower.com](mailto:jnorlen@heberpower.com)

Utah Public Service Commission  
Heber M. Wells Building  
160 East 300 South  
Salt Lake City, UT 84114  
[psc@utah.gov](mailto:psc@utah.gov)

**7. Conclusion**

For the above reasons, PacifiCorp requests that the Commission accept this Construction Agreement for filing and grant the proposed effective date of August 17, 2021, and grant waiver of any Commission regulations not addressed herein that the Commission may deem applicable to this filing.

Respectfully Submitted,

/s/ Matthew P. Loftus

Matthew P. Loftus  
Attorney for PacifiCorp

**PROJECT CONSTRUCTION AGREEMENT**  
**PROJECT TITLE: HEBER LIGHT AND POWER 2<sup>ND</sup> POINT OF DELIVERY /**  
**DANIELS SUBSTATION**

This Project Construction Agreement (“Agreement”) is made and entered into this 9th day of June, 2021, between Heber Light & Power Company (“Customer” or “HLP”), and PacifiCorp (“Company” or “PacifiCorp”), is for work to be performed by PacifiCorp for Customer. Hereinafter, Customer and PacifiCorp may be individually referred to as a “Party” or collectively referred to as the “Parties.”

RECITALS:

- A. WHEREAS, Company is a transmission provider which owns and operates certain facilities for the transmission of electric power and energy located in Utah; and
- B. WHEREAS, on February 10, 2014, Customer, through Utah Associated Municipal Power Systems (“UAMPS”), requested an additional Point of Delivery (“POD”) under the Fifth Amended and Restated Transmission Service and Operating Agreement (“ARTSOA”) between UAMPS and Company (“Project”); and
- C. WHEREAS, Company has provided both System Impact and Facilities Studies to UAMPS and Customer which detail the work required to facilitate the Project; and
- D. WHEREAS, the Parties have agreed to perform the work required to complete the Project.

NOW THEREFORE, in consideration of and subject to the mutual covenants contained herein, the Parties agree to the following:

1. DEFINITIONS.

**Applicable Laws and Regulations** shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any governmental authority.

**Applicable Reliability Standards** shall mean the requirements and guidelines of North American Electric Reliability Corporation (“NERC”), the Western Electricity Coordinating Council (“WECC”), and the balancing authority area of the transmission system to which the Customer is directly interconnected.

**Direct Assignment Facilities** shall mean facilities or portions of facilities that are constructed by Company for the sole use/benefit of the Customer requesting service. Direct Assignment Facilities shall be specified in this Agreement. The Customer will pay all costs of Direct Assignment Facilities, net of Offsetting Costs.

**Good Utility Practice** shall mean any of the practices, methods and acts engaged in or approved

by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. 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 acceptable practices, methods, or acts generally accepted in the region.

**Network Upgrades** shall mean additions, modifications, and upgrades to Company's transmission system required at or beyond the point at which the customer's facilities connect with company's transmission system. Network Upgrades are integrated with and support Company's Transmission System for the general benefit of all users of such transmission system.

**Offsetting Costs** shall mean those costs incurred by Customer for the benefit of Company. Offsetting Costs shall reduce the amount of Direct Assignment Facilities costs to be paid by Customer. Refer to Exhibit D for cost information.

**Property** shall mean the parcel of real property owned by HLP located at approximately 1465 West 650 South, Heber City, Utah.

2. **TERM & TERMINATION.** This Agreement shall be effective upon the later of the following: (1) the date of execution by both Parties, or (2) the effective date established by the Federal Energy Regulatory Commission ("FERC") upon acceptance for filing. Unless terminated earlier pursuant to the termination provisions of Section 4.3 or Section 12, this Agreement shall terminate ninety (90) calendar days after the earliest of the following to occur:

- (i) Company's receipt of final payment of actual costs by Customer; or
- (ii) Company's refund of overpayment to Customer, pursuant to Section 4 of this Agreement; or
- (iii) PacifiCorp's determination of actual costs after completion of construction, in the event that neither a final payment nor a refund is required pursuant to Section 4 of this Agreement.
- (iv) Notwithstanding the above, the Termination of the Agreement is subject to acceptance by the FERC and the effectiveness of such termination shall be subject to FERC's acceptance of the termination.

3. **SCOPE AND PERFORMANCE OF WORK:**

a. **Project Description and Scope.** To complete the Customer request, a new ring-bus substation is required to be built on Company's Jordanelle – Midway 138 kV transmission line. Communications equipment to tie the new substation into the existing Company communications network is also required. A simplified one-line diagram illustrating the interconnection of the Project to PacifiCorp's transmission system is depicted in the attached Exhibit A, One-Line Diagram.

b. **Company Responsibilities.** Company agrees to design, procure, and install the Project as depicted in the attached Exhibit B, Estimated Scope of Work.

c. **Customer Responsibilities.** Customer agrees to design, procure, and install the Project as depicted in the attached Exhibit B, Estimated Scope of Work.

d. **Performance Standards.** Each Party shall perform all its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice (as such terms are defined in this Agreement). To the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in breach of this Agreement for compliance therewith.

#### 4. OWNERSHIP/RESPONSIBILITY FOR COSTS:

4.1. Ownership. Each Party shall retain ownership and maintain equipment installed by the respective Party.

4.2. Estimated Costs. The Company's estimated cost for Company's Scope of Work for the Project is \$7,085,000.00, which includes \$1,670,000.00 in Direct Assignment Facilities costs, \$823,390.00 in estimated Offsetting Costs, and \$5,415,000.00 in Network Upgrade costs. Direct Assignment Facilities costs are those costs associated with the installation of Direct Assignment Facilities, while Network Upgrade costs are those costs associated with the installation of Network Upgrades. These costs are detailed in Exhibit D. Company shall notify Customer, in writing, within thirty (30) calendar days if, at any time during the course of the Project, Company expects the cost of performing the work identified under this Agreement to exceed \$8,500,000.00.

The estimated cost includes engineering, labor, materials, subcontracts, and applicable overheads. The cost estimate is based on the following assumptions:

- Cost estimate is based on calendar year 2020 dollars.
- If construction is delayed, the cost estimate will likely need to be adjusted.
- Estimate assumes no exceptional site preparation will be needed.
- Estimate assumes project will be built during normal hours and will not require schedule compression or overtime.
- Except as described in Section 4.4, estimate assumes no new permitting, property, right of way or easements will be required or assigned to the Project.

4.2.1. Direct Assignment Facilities Costs. In consideration of the work to be performed by Company, Customer agrees to pay the estimated Direct Assignment Facilities costs of \$1,670,000.00, net of the estimated Offsetting Costs of \$823,390.00, for a total estimate of \$846,610.00. Customer shall reimburse Company for the actual cost to complete the work. Company will provide monthly invoices to the Customer for actual costs to complete the work. Following completion of the Project, Company shall determine its final actual costs for the Direct Assignment Facilities identified in the Scope of Work. Company's actual costs shall include all direct costs plus applicable overheads. If the actual costs are more than the estimated costs, Company will forward a copy of the actual costs to Customer

along with an invoice for the additional amount within one hundred twenty (120) calendar days after completion of Project. If the actual costs are less than the estimated costs, Company will forward a copy of the actual costs to Customer along with a refund to cover the overage within one hundred twenty (120) calendar days after completion of Project. Customer will have thirty (30) calendar days after receiving any invoice to make payment in full.

4.2.2. Network Upgrade Costs. Company agrees to pay the estimated Network Upgrade costs of \$5,415,000.00. Company will commence work upon acceptance of the filing by the FERC.

4.3. Authorization of Additional Amounts for Direct Assignment Facilities Costs. In the event that Company determines the Direct Assignment Facilities costs may exceed \$1,670,000.00, Company shall notify Customer and request that Customer provide written approval authorizing such additional amounts for Direct Assignment Facilities costs within thirty (30) days of such notice. Company's obligation to proceed with the Project associated with such additional amounts shall be contingent upon receipt of such approval, along with a prepayment of such additional amount. Customer shall be responsible for such estimated costs, as increased pursuant to such written authorization. If Customer does not authorize such additional amounts within such thirty (30) day period, this Agreement shall terminate after Company gives Customer written notice and an additional fifteen (15) days to cure. If Customer agrees to the cost increase, a modification to this Agreement will be prepared to indicate the additional funding amount.

4.4. Property.

4.4.1. Customer will convey to PacifiCorp a perpetual easement from 650 South (road at the north of the Property) across the Property to access points as determined by PacifiCorp to access the portion of the Property to be conveyed to PacifiCorp as described in Section 4.4.3. Legal description(s) defining the easement(s) will be developed during construction of the POD substation and the adjacent HLP substation. All easements contemplated by this Section 4.4.1. shall be executed and recorded prior to commercial operation of the Project.

4.4.2. Customer will convey to PacifiCorp a perpetual easement for all PacifiCorp transmission lines crossing portions of the Property owned by HLP. Legal description(s) defining the easement(s) will be developed during construction of the POD substation and the adjacent HLP substation. All easements contemplated by this Section 4.4.2. shall be executed and recorded prior to commercial operation of the Project. Payment for the easements contemplated by this Section 4.4.2. shall be made in accordance with the provisions of that certain Construction Agreement for Heber-Midway Line between Rocky Mountain Power and Heber Light & Power Company, dated April 3, 2017, as may be amended in the future.

4.4.3. Upon execution of this Construction Agreement, Customer will grant, in writing, to PacifiCorp and all PacifiCorp's contractors unescorted access to the

location of the POD substation to perform all activities associated with the design, procurement and construction of PacifiCorp's substation and transmission lines.

4.4.4. The Parties will work in concert with Wasatch County Planning Department petitioning Wasatch County for approval of the creation of a new parcel from a portion of the Property to provide PacifiCorp with at least five (5) acres of property under PacifiCorp's ownership on which to construct and operate the POD substation (the "PacifiCorp Property"). The Parties will act together in the Wasatch County's process by, among other things, providing requested information, jointly attending meetings, and acting together in the defense of any necessary actions to create the PacifiCorp Property as a separate parcel for the POD substation. If the creation of a separate parcel cannot be completed within 60 days after the completion of construction, then Customer will convey to PacifiCorp a perpetual easement for the area of the PacifiCorp Property; in such case, the real property offsetting costs as described in Exhibit D shall be modified to reflect the value of the easement, which the Parties agree is \$381,002.00, rather than the fee value as currently listed on Exhibit D. The approximate boundaries of the PacifiCorp Property are shown on Exhibit E.

4.4.5. Customer shall be responsible for the design, construction, and maintenance of the berm. Additionally, Customer will be responsible for the design, construction, and maintenance of all landscaping on property owned by Customer and any property owned by PacifiCorp outside of the fenced substation. Prior to commercial operation of the Project, the Parties shall execute an agreement for the ongoing maintenance of the portions of the Property outside of the fenced substation areas, in substantially the form attached as Exhibit F.

4.5. Payment of Actual Costs. Customer shall reimburse Company for the actual cost to complete the work to complete the Project. Following completion of the Project, Company shall determine its actual costs for the Project identified in the Scope of Work. Company's actual costs shall include all direct costs plus applicable overheads. If the actual costs are more than the estimated costs, Company will forward a copy of the actual costs to Customer along with an invoice for the additional amount within one hundred twenty (120) calendar days after completion of construction. If the actual costs are less than the estimated costs, Company will forward a copy of the actual costs to Customer along with a refund to cover the overage. Company shall keep accurate and complete accounting records in support of all cost billings and claims in accordance with generally accepted accounting principles. Upon request, Company shall provide accounting records to Customer following completion of the Project.

## 5. TAXES:

5.1. Customer Payments Not Taxable. The Parties intend that all payments made by Customer to Company for the installation of the Project shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code ("IRC") and any applicable state income tax laws and shall not be taxable as contributions in aid of construction or otherwise under the IRC and any applicable state income tax laws.



5.2. Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon Company. Notwithstanding Section 5.1, Customer shall protect, indemnify and hold harmless Company from the cost consequences of any current tax liability imposed against Company as the result of payments made by Customer to Company under this Agreement for the Project, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Company.

Company shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Customer under this Agreement unless (i) Company has determined, in good faith, that the payments or property transfers made by Customer to Company should be reported as income subject to taxation or (ii) any governmental authority directs Company to report payments or property as income subject to taxation. Customer shall reimburse Company for such costs on a fully grossed-up basis, in accordance with Section 5.3, within thirty (30) calendar days of receiving written notification from Company of the amount due, including detail about how the amount was calculated.

5.3. Tax Gross-up Amount. Customer's liability for the cost consequences of any current tax liability under this Section 5 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the Parties, this means that Customer will pay Company, in addition to the amount paid for the Project, an amount equal to (1) the current taxes imposed on Company ("Current Taxes") on the excess of (a) the gross income realized by Company as a result of payments made by Customer to Company under this Agreement (without regard to any payments under this Article) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit Company to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Company's composite federal and state tax rates at the time the payments or property transfers are received and Company will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting Company's anticipated tax depreciation deductions as a result of such payments by Company's current weighted average cost of capital. Thus, the formula for calculating Customer's liability to Company pursuant to this Article can be expressed as follows:

***(Current Tax Rate x (Gross Income Amount – Present Value of Tax Depreciation)) / (1- Current Tax Rate).***

5.4. Contests. In the event any governmental authority determines that Company's receipt of payments or property constitutes income that is subject to taxation, Company shall notify Customer, in writing, within thirty (30) calendar days of receiving notification of such determination by a governmental authority.

5.5. Refund. In the event that (a) a private letter ruling is issued to Company which holds that any amount paid by Customer to Company under the terms of this Agreement is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Company in good faith that any amount paid by Customer to Company under the terms of this Agreement is not taxable to Company, (c) any abatement, appeal, protest, or other contest results in a determination that any payments made by Customer to Company are not subject to federal income tax, or (d) if Company receives a refund from any taxing authority for any overpayment of tax attributable to any payment by Customer to Company pursuant to this Agreement, Company shall promptly refund to Customer the following:

(i) any payment made by Customer under this Section 5 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon;

(ii) interest on any amounts paid by Customer to Company for such taxes which Company did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) from the date payment was made by Customer to the date Company refunds such payment to Customer; and

(iii) with respect to any such taxes paid by Company, any refund or credit Company receives or to which it may be entitled from any governmental authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Company for such overpayment of taxes (including any reduction in interest otherwise payable by Company to any governmental authority resulting from an offset or credit); provided, however, that Company will remit such amount promptly to Customer only after and to the extent that Company has received a tax refund, credit or offset from any governmental authority for any applicable overpayment of income tax related to Company's Project.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for the Project hereunder, in the same position they would have been in had no such tax payments been made.

6. PROJECT SCHEDULE. The Parties have agreed to the Estimated Schedule and Milestones attached as Exhibit C, Estimated Schedule and Milestones, for the completion of the Project. All project schedule milestones shall be best estimates of the time required to complete each Party's task(s) at the time the schedule was developed.

7. STANDARD OF WORK. All work performed pursuant to this Agreement by either Party or their agents shall be performed in a good and workmanlike manner in accordance with Good Utility Practice and with any and all prudent and Applicable Reliability Standards.

8. CHANGES. The Parties may at any time, in writing, mutually agree to changes and/or additions within the general scope of this Agreement or any amendment hereto, direct the omission

of or variation in work, or alter the schedule. If such direction results in a material change in the amount or character of the work, an equitable adjustment in estimated costs and other such provisions of this Agreement as may be affected shall be made and this Agreement shall be modified in writing accordingly.

No change shall be binding upon the Parties until a change order is executed by each Party which is in writing and expressly states that it constitutes a change order to this Agreement. The issuance of information, advice, approvals, or instructions verbally or by an exchange of e-mail or in any other manner short of a writing executed by both Parties shall not constitute an authorized change order pursuant to this provision.

All revisions to this Agreement, if originally filed at FERC, will be filed for acceptance at FERC by Company as an amended and restated agreement.

9. INSPECTION. Customer may, at its discretion and expense, inspect Company's construction work of the Project in progress upon reasonable notice and with supervision by Company. Company may, at its discretion and expense, inspect Customer's construction work of the Project in progress upon reasonable notice and with supervision by Customer. Customer will provide testing results to Company as specified in the technical specifications.

10. TESTING. Before the new facilities required for the Project are energized, such new facilities shall be tested by Company to ensure their safe and reliable operation in accordance with Good Utility Practice, all applicable FERC, NERC and WECC criteria and requirements, and all applicable federal, state, and local law, regulations, and requirements. If testing indicates that modifications are required, Customer shall bear the cost of all such modifications in accordance with Section 4 above, except to the extent that any such modifications are required as a result of Company's or its agents' or its subcontractors' negligence, willful misconduct, or failure to comply with Good Utility Practice.

11. RIGHT TO STOP WORK. Customer reserves the right, upon thirty (30) days advance written notice to Company, to require Company at any time to stop all work by Company pursuant to this Agreement, provided that such stop-work order is the result of suspension or termination of the Project. Issuance of any such stop-work order shall terminate this Agreement. Upon issuance of any such stop-work order, Customer shall pay the Direct Assignment Facilities costs (net of Offsetting Costs) Company has incurred prior to the stoppage of work, including, without limitation, the costs incurred in connection with the cancellation of third-party contracts and any cancellation costs for equipment that is already ordered for the Project.

12. GOVERNING LAW. Enforcement or interpretation of this Agreement shall be in the state court of the State of Utah, and all parties hereby submit to the jurisdiction of said court for the stated purpose. Furthermore, this Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

13. NO PARTNERSHIP. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. 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.

14. ASSIGNMENT. Company may at any time assign its rights and delegate its obligations under this Agreement, in whole or in part, including, without limitation, transferring its rights and obligations under this Agreement to any: (i) affiliate; (ii) successor in interest with respect to the Project, or (iii) corporation or any other business entity in conjunction with a merger, consolidation or other business reorganization to which Company is a party. Affiliate of Company includes any entity in which Berkshire Hathaway, Inc. owns more than a 5% interest, over which Berkshire Hathaway exercises management control. Should such assignment take place, Company will provide written notice to Customer. Customer shall not assign its rights, nor delegate its obligations, under this agreement without the prior written consent of Company, which shall not be unreasonably withheld, and any attempted transfer in violation of the restriction shall be void.

15. PROVISIONAL REMEDIES. Either Party may seek provisional legal remedies, if in such Party's judgment such action is necessary to avoid irreparable damage or preserve the status quo.

16. ENTIRE CONTRACT. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and there are no oral or written understandings, representations or commitments of any kind, express or implied, which are not expressly set forth herein.

17. NOTICES. Any correspondence regarding this work shall be directed to the appropriate party (or parties) as shown below:

Customer: Heber Light & Power Company  
Attn: General Manager  
31 South 100 West  
Heber City, UT 84032

Company: Vice President, Transmission Services  
825 NE Multnomah St., Suite 1600  
Portland, OR 97232

18. PAYMENT. Payments shall be sent to:

US Mail Deliveries: Company Transmission  
P.O. Box 2757  
Portland, OR 97208

Other Deliveries: Company Transmission  
Attn: Central Cashiers  
825 NE Multnomah St., Suite 550  
Portland, OR 97232

19. INDEMNIFICATION. Customer ("Indemnifying Party") agrees to protect, defend, indemnify and hold harmless the Company, its officers, employees and agents (collectively, the

“Indemnified Party”) against and from any and all liability, suits, loss, damage, claims, actions, costs and expenses of any nature, including court costs and attorney’s fees, even if such actions or claims are completely groundless, growing out of injury to or death of the Indemnifying Party or its subcontractors of any tier, their employees, agents or guests, or any other person or persons, or any and all destruction, loss or damage to property arising in any way in connection with, or related to, the Company's performance of any work or any of its obligations under the Agreement, except as to injury to persons or damage to property on the work site caused by the sole negligence of the Indemnified Party.

Moreover, at the request of the Indemnified Party, the Indemnifying Party shall defend any action, claim or suit asserting a claim that might be covered by this indemnity. The Indemnifying Party shall pay all costs and expenses that may be incurred by the Indemnified Party in enforcing this indemnity and defense agreement, including attorney’s fees actually paid by the Indemnified Party.

20. LIMITATION OF LIABILITY. Except as otherwise expressly provided in this Agreement, each Party's liability to the other Party for any loss, cost, claim, injury, damage, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as specifically authorized by this Agreement.

21. FORCE MAJEURE. A Party shall not be subject to any liability or damages for inability to meet its obligations under this Agreement to the extent that such failure shall be due to causes beyond the control of the Party, including, but not limited to the following: (a) the operation and effect of any new or modified rules, regulations and orders promulgated by FERC, any applicable state public utility commission, any municipality, or any governmental agency of the United States, or subdivision thereof (so long as the claiming party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such government action); (b) restraining order, injunction or similar decree of any court; (c) any Force Majeure event.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

The Party claiming Force Majeure shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible. Except for the obligation to pay amounts owed when due, time periods for performance obligations of either Party herein shall be extended for the period during which Force Majeure was in effect.

22. SUCCESSORS. This Agreement will be binding upon the Parties and will inure to the benefit of their respective successors.

23. SEVERABILITY. If any provision or portion of this Agreement shall for any reason be held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction

or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

24. 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 LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE, OR TO REQUEST THE CONSOLIDATION OF, 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.

25. MULTIPLE COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

26. CONTRACTORS AND SUBCONTRACTORS. Nothing in this Agreement shall prevent Company or Customer from utilizing the services of any third party contractor or subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that Company and Customer shall require a third party contractor and subcontractor to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such third party contractor and subcontractor.

27. NO THIRD-PARTY BENEFICIARIES. Other than UAMPS as described herein, this Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

28. SURVIVAL. All payment obligations and liabilities incurred before the termination or expiration of this Agreement, will survive its termination or expiration.

29. MODIFICATIONS OR AMENDMENTS. No modification or amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by authorized representatives of the Parties.

30. RECITALS. The above stated recitals are incorporated into and made part of this Agreement by this reference to the same extent as if these recitals were set forth in full at this point.

31. WAIVER. Waiver of any right, privilege, claim, obligation, condition, or default shall be in writing and signed by the waiving Party. No waiver by a Party of any breach of this Agreement shall be a waiver of any preceding or succeeding breach, and no waiver by a Party of any right under this Agreement shall be construed as a waiver of any other right.

32. DISPUTE RESOLUTION.

32.1. Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement, such Party shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) calendar days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in a Federal court under Federal law.

32.2. Arbitration Procedures

Any arbitration initiated under these procedures shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) calendar days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) calendar days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

32.3. Arbitration Decisions

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) calendar days of appointment and shall notify the Parties in writing of such decision and the reasons therefore. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service.

32.4. Costs

Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three-member panel and one half of the cost of the third arbitrator chosen; or (2) one half the cost of the single arbitrator jointly chosen by the Parties.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement effective as of the day and year first herein above written.

COMPANY

CUSTOMER

/s/ Rick Vail  
Signature

/s/ Jason Norlen  
Signature

Rick Vail  
Printed Name of Signor

Jason Norlen  
Printed Name of Signor

VP, Transmission  
Title of Signor

General Manager  
Title of Signor

06/09/2021

6-3-2021



**Exhibit A**  
One-Line Diagram

*(See attached Signed Tariff PDF for image)*

## **Exhibit B**

### **Estimated Scope of Work**

#### ***Transmission System Modifications***

Company to design, construct, and own a loop in/out of the Jordanelle – Midway 138 kV line at the new Heber substation (also known as the Daniels substation).

UAMPS or Heber Light & Power to convey any and all property/permits/Right of Way to Company for the transmission lines and access to the line structures. Line easements to be in perpetuity. Refer to Section 4 of the construction agreement.

#### ***Protection Requirements***

Company to design, construct, and own a Permissive Over-Reaching Transfer Trip (“POTT”) with two reclose operations following a 0.9 second and 15 second delay for the Silver Creek (Jordanelle) line. The reclosing will be supervised by sync-check or dead line check. Bus differential relaying for the two tie lines to Heber Light & Power will also be installed.

Required equipment includes

- 1 – line current differential relay panel
- 1 – POTT line relay panel
- 2 – bus differential panels
- 4 – breaker control panels
- 1 – annunciator panel
- 1 – GPS clock & RTAC panel

#### ***Substation Requirements***

Company to design, construct, and own a new four breaker ring bus substation (built to expand to more breakers). The following equipment will be installed:

- 4 – 138 kV, 2000 A, 40 kA, circuit breaker, with 18 CT's
- 8 – 138 kV, CCVT,
- 12 – 138 kV surge arrester
- 12 – 138 kV, 2000 A, switch, breaker disconnect, VBHM
- 4 – 138 kV, 2000 A, switch, line disconnect, VBVM
- 1 – 138 kV SSVT
- 1 – Generator
- 1 – Control house

UAMPS or Heber Light and Power to convey property ownership for PacifiCorp's new substation and perpetual easements for access from 650 South at the north end of the property to PacifiCorp's new substation. Refer to Section 4 of the Construction Agreement.

#### ***Communication Requirements***

Company to design, construct, and own electronic communications support for the Jordanelle – Daniels – Midway 138 kV line installation in conjunction with Heber Light & Power. This will require the following:

- Slack brackets and splices cases on the Midway line dead end and the Silver Creek (Jordanelle) line dead end.
- ADSS underground from the Midway line dead end and from the Silver Creek (Jordanelle) line dead end to separate fiber patch panels inside the control house.
- Ciena 3926 fiber node and a Loop AM3440 multiplex to support the required relaying and SCADA circuits. Install a 48 Volt battery and charger system. Connect the 11A relays to the Orion RTU for fault locating.

Note: This proposed line will have ½" equivalent OPGW installed on it and the OPGW will provide the path for the relay protection scheme for the Midway – Daniels – Silver Creek 138 kV line.

In addition, Company to design, construct, and own the electronic communication circuits to support the Naughton RAS (including removals at Birch Creek Substation and additions at Railroad Substation) and the relaying between Hale - Midway, between Midway - Daniels, and between Daniels -Silver Creek and the SCADA changes and additions at all of the above-mentioned substations.

### ***Metering Requirements***

Metering will be owned and installed by UAMPS per the amended and restated transmission service and operating agreement between UAMPS and PacifiCorp.

**Exhibit C**  
Estimated Schedule and Milestones

The estimated schedule and milestones are driven by the below timeframes which may be adjusted through the course of the Project. If there is a delay in any of the below activities, there will be, at a minimum, a day for day slip in the entire schedule. Any delays in the Project have the potential to affect the entire schedule.

<b>Milestones</b>	<b>Estimated Date</b>
Customer Property/Permits/ROW Procured	Already Completed by HLP
Customer Design Information Provided	October 12, 2020
Execute Construction Agreement	Feb. 15, 2021
*PacifiCorp Engineering & Procurement Commences	March 1, 2021
PacifiCorp Engineering Design Complete	Sept. 24, 2021
Construction Begins	Dec. 1, 2021
Construction Ends	Aug. 1, 2022
Commissioning/Testing	Aug. 15, 2022
Commercial Operation	Aug. 31, 2022

**Exhibit D**  
Estimated Cost

Project Management	\$23,782
Construction Services	\$827,625
Materials	\$702,563
Operations	\$62,030
Other	<u>\$54,000</u>
<b>Total Direct Assigned</b>	<b>\$1,670,000</b>

Network Upgrades	
Project Management	\$65,125
Construction Services	\$3,237,974
Materials	\$1,584,897
Operations	\$122,162
Engineering	\$398,009
Other	<u>\$6,833</u>
<b>Total Network Upgrades</b>	<b>\$5,415,000</b>

<b>Offsetting Costs</b>	
Real Property	\$423,335
Permitting Support	\$54,224
Site Prep Design	\$62,931
Landscape Berm Costs	\$213,050
Access Road Easement	\$69,850
Other	<u>\$</u>
<b>Total Offsetting Costs</b>	<b>\$823,390</b>

**Exhibit E**

Approximate location of PacifiCorp property

*(See attached Signed Tariff PDF for image)*

**Exhibit F**  
Maintenance Agreement

## **PROPERTY MAINTENANCE AGREEMENT**

This Property Management Agreement (the “**Agreement**”) is made and entered into as of \_\_\_\_\_ by and between HEBER LIGHT & POWER COMPANY, a Utah energy services interlocal entity (“**HLP**”), and ROCKY MOUNTAIN POWER, an unincorporated division of PacifiCorp \_\_\_\_\_ (“**RMP**”), regarding the maintenance of the property as shown on Exhibit A (the “**Property**”) where HLP and RMP have built their respective substations. HLP and RMP may be referred to herein individually as a “**Party**” or collectively as the “**Parties.**”

### **RECITALS**

WHEREAS, the Parties have each built a substation on the Property located in Wasatch County; and

WHEREAS, portions of the Property, including the landscaped berm around the substation areas, are necessary to both Parties in order to access the respective substations and to comply with local requirements; and

WHEREAS, Wasatch County requires that the Property be maintained in accordance with certain landscaping requirements, as dictated by the applicable conditional use permit issued by Wasatch County; and

WHEREAS, the Parties desire HLP to maintain the Property’s landscaping in accordance with the applicable requirements; and

WHEREAS, the Parties desire to set forth the terms and conditions by which RMP will compensate HLP for maintaining the Property’s landscaping.

### **AGREEMENT**

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the Parties agree as follows:

#### **1. ARTICLE 1—MAINTENANCE OF THE PROPERTY**

HLP shall maintain the Property’s landscaping so that it complies with local requirements and ordinances. HLP will document the costs it incurs maintaining the Property and retain that documentation for RMP’s inspection for a period of at least six months after HLP invoices RMP for RMP’s portion of the costs pursuant to Article 2 in this Agreement.

For purposes of this Agreement, the term Property shall not include the areas inside the fences of the respective substations. Nor shall the term Property include the existing house and approximately five acres of property surrounding the house.



## **2. ARTICLE 2—SHARED EXPENSES**

RMP shall pay for one-half (1/2) of all costs incurred by HLP to maintain the Property's landscaping in compliance with local ordinances (the "RMP Share"). RMP shall pay the RMP Share of the costs no later than thirty (30) days after receiving an invoice for such costs from HLP.

## **3. ARTICLE 3—TERM**

This Agreement shall continue indefinitely until terminated or modified by the Parties.

## **4. ARTICLE 4—GOVERNING LAW**

This Agreement is made in the State of Utah, under the Constitution and laws of this State, and is to be construed pursuant to such laws.

## **5. ARTICLE 5—SEVERABILITY**

Should any part, term, or provision of this Agreement be held by the Courts to be illegal or in conflict with any law of the State of Utah, or otherwise rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected by such ruling.

## **6. ARTICLE 6—AUTHORITY**

The signatories below represent and affirm that they are authorized to sign on behalf of their respective organizations.

### **ROCKY MOUNTAIN POWER**

By: \_\_\_\_\_

Name:

Title:

### **HEBER LIGHT & POWER COMPANY**

By: \_\_\_\_\_

Jason Norlen, General Manager

**EXHIBIT A**  
to Property Maintenance Agreement

*Property Map*

**PROJECT CONSTRUCTION AGREEMENT**  
**PROJECT TITLE: HEBER LIGHT AND POWER 2<sup>ND</sup> POINT OF DELIVERY /**  
**DANIELS SUBSTATION**

This Project Construction Agreement ("Agreement") is made and entered into this 9th day of June, 2021, between Heber Light & Power Company ("Customer" or "HLP"), and PacifiCorp ("Company" or "PacifiCorp"), is for work to be performed by PacifiCorp for Customer. Hereinafter, Customer and PacifiCorp may be individually referred to as a "Party" or collectively referred to as the "Parties."

RECITALS:

- A. WHEREAS, Company is a transmission provider which owns and operates certain facilities for the transmission of electric power and energy located in Utah; and
- B. WHEREAS, on February 10, 2014, Customer, through Utah Associated Municipal Power Systems ("UAMPS"), requested an additional Point of Delivery ("POD") under the Fifth Amended and Restated Transmission Service and Operating Agreement ("ARTSOA") between UAMPS and Company ("Project"); and
- C. WHEREAS, Company has provided both System Impact and Facilities Studies to UAMPS and Customer which detail the work required to facilitate the Project; and
- D. WHEREAS, the Parties have agreed to perform the work required to complete the Project.

NOW THEREFORE, in consideration of and subject to the mutual covenants contained herein, the Parties agree to the following:

1. DEFINITIONS.

**Applicable Laws and Regulations** shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directives, or judicial or administrative orders, permits and other duly authorized actions of any governmental authority.

**Applicable Reliability Standards** shall mean the requirements and guidelines of North American Electric Reliability Corporation ("NERC"), the Western Electricity Coordinating Council ("WECC"), and the balancing authority area of the transmission system to which the Customer is directly interconnected.

**Direct Assignment Facilities** shall mean facilities or portions of facilities that are constructed by Company for the sole use/benefit of the Customer requesting service. Direct Assignment Facilities shall be specified in this Agreement. The Customer will pay all costs of Direct Assignment Facilities, net of Offsetting Costs.

**Good Utility Practice** shall mean any of the practices, methods and acts engaged in or approved

by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. 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 acceptable practices, methods, or acts generally accepted in the region.

**Network Upgrades** shall mean additions, modifications, and upgrades to Company's transmission system required at or beyond the point at which the customer's facilities connect with company's transmission system. Network Upgrades are integrated with and support Company's Transmission System for the general benefit of all users of such transmission system.

**Offsetting Costs** shall mean those costs incurred by Customer for the benefit of Company. Offsetting Costs shall reduce the amount of Direct Assignment Facilities costs to be paid by Customer. Refer to Exhibit D for cost information.

**Property** shall mean the parcel of real property owned by HLP located at approximately 1465 West 650 South, Heber City, Utah.

2. **TERM & TERMINATION.** This Agreement shall be effective upon the later of the following: (1) the date of execution by both Parties, or (2) the effective date established by the Federal Energy Regulatory Commission ("FERC") upon acceptance for filing. Unless terminated earlier pursuant to the termination provisions of Section 4.3 or Section 12, this Agreement shall terminate ninety (90) calendar days after the earliest of the following to occur:

- (i) Company's receipt of final payment of actual costs by Customer; or
- (ii) Company's refund of overpayment to Customer, pursuant to Section 4 of this Agreement; or
- (iii) PacifiCorp's determination of actual costs after completion of construction, in the event that neither a final payment nor a refund is required pursuant to Section 4 of this Agreement.
- (iv) Notwithstanding the above, the Termination of the Agreement is subject to acceptance by the FERC and the effectiveness of such termination shall be subject to FERC's acceptance of the termination.

3. **SCOPE AND PERFORMANCE OF WORK:**

a. **Project Description and Scope.** To complete the Customer request, a new ring-bus substation is required to be built on Company's Jordanelle – Midway 138 kV transmission line. Communications equipment to tie the new substation into the existing Company communications network is also required. A simplified one-line diagram illustrating the interconnection of the Project to PacifiCorp's transmission system is depicted in the attached Exhibit A, One-Line Diagram.

b. **Company Responsibilities.** Company agrees to design, procure, and install the

Project as depicted in the attached Exhibit B, Estimated Scope of Work.

c. **Customer Responsibilities.** Customer agrees to design, procure, and install the Project as depicted in the attached Exhibit B, Estimated Scope of Work.

d. **Performance Standards.** Each Party shall perform all its obligations under this Agreement in accordance with Applicable Laws and Regulations, Applicable Reliability Standards, and Good Utility Practice (as such terms are defined in this Agreement). To the extent a Party is required or prevented or limited in taking any action by such regulations and standards, such Party shall not be deemed to be in breach of this Agreement for compliance therewith.

4. OWNERSHIP/RESPONSIBILITY FOR COSTS:

4.1. Ownership. Each Party shall retain ownership and maintain equipment installed by the respective Party.

4.2. Estimated Costs. The Company's estimated cost for Company's Scope of Work for the Project is \$7,085,000.00, which includes \$1,670,000.00 in Direct Assignment Facilities costs, \$823,390.00 in estimated Offsetting Costs, and \$5,415,000.00 in Network Upgrade costs. Direct Assignment Facilities costs are those costs associated with the installation of Direct Assignment Facilities, while Network Upgrade costs are those costs associated with the installation of Network Upgrades. These costs are detailed in Exhibit D. Company shall notify Customer, in writing, within thirty (30) calendar days if, at any time during the course of the Project, Company expects the cost of performing the work identified under this Agreement to exceed \$8,500,000.00.

The estimated cost includes engineering, labor, materials, subcontracts, and applicable overheads. The cost estimate is based on the following assumptions:

- Cost estimate is based on calendar year 2020 dollars.
- If construction is delayed, the cost estimate will likely need to be adjusted.
- Estimate assumes no exceptional site preparation will be needed.
- Estimate assumes project will be built during normal hours and will not require schedule compression or overtime.
- Except as described in Section 4.4, estimate assumes no new permitting, property, right of way or easements will be required or assigned to the Project.

4.2.1. Direct Assignment Facilities Costs. In consideration of the work to be performed by Company, Customer agrees to pay the estimated Direct Assignment Facilities costs of \$1,670,000.00, net of the estimated Offsetting Costs of \$823,390.00, for a total estimate of \$846,610.00. Customer shall reimburse Company for the actual cost to complete the work. Company will provide monthly invoices to the Customer for actual costs to complete the work. Following completion of the Project, Company shall determine its final actual costs for the Direct Assignment Facilities identified in the Scope of Work. Company's actual costs shall include all direct costs plus applicable overheads. If the actual costs are more than

the estimated costs, Company will forward a copy of the actual costs to Customer along with an invoice for the additional amount within one hundred twenty (120) calendar days after completion of Project. If the actual costs are less than the estimated costs, Company will forward a copy of the actual costs to Customer along with a refund to cover the overage within one hundred twenty (120) calendar days after completion of Project. Customer will have thirty (30) calendar days after receiving any invoice to make payment in full.

4.2.2. Network Upgrade Costs. Company agrees to pay the estimated Network Upgrade costs of \$5,415,000.00. Company will commence work upon acceptance of the filing by the FERC.

4.3. Authorization of Additional Amounts for Direct Assignment Facilities Costs. In the event that Company determines the Direct Assignment Facilities costs may exceed \$1,670,000.00, Company shall notify Customer and request that Customer provide written approval authorizing such additional amounts for Direct Assignment Facilities costs within thirty (30) days of such notice. Company's obligation to proceed with the Project associated with such additional amounts shall be contingent upon receipt of such approval, along with a prepayment of such additional amount. Customer shall be responsible for such estimated costs, as increased pursuant to such written authorization. If Customer does not authorize such additional amounts within such thirty (30) day period, this Agreement shall terminate after Company gives Customer written notice and an additional fifteen (15) days to cure. If Customer agrees to the cost increase, a modification to this Agreement will be prepared to indicate the additional funding amount.

4.4. Property.

4.4.1. Customer will convey to PacifiCorp a perpetual easement from 650 South (road at the north of the Property) across the Property to access points as determined by PacifiCorp to access the portion of the Property to be conveyed to PacifiCorp as described in Section 4.4.3. Legal description(s) defining the easement(s) will be developed during construction of the POD substation and the adjacent HLP substation. All easements contemplated by this Section 4.4.1. shall be executed and recorded prior to commercial operation of the Project.

4.4.2. Customer will convey to PacifiCorp a perpetual easement for all PacifiCorp transmission lines crossing portions of the Property owned by HLP. Legal description(s) defining the easement(s) will be developed during construction of the POD substation and the adjacent HLP substation. All easements contemplated by this Section 4.4.2. shall be executed and recorded prior to commercial operation of the Project. Payment for the easements contemplated by this Section 4.4.2. shall be made in accordance with the provisions of that certain Construction Agreement for Heber-Midway Line between Rocky Mountain Power and Heber Light & Power Company, dated April 3, 2017, as may be amended in the future.

4.4.3. Upon execution of this Construction Agreement, Customer will grant, in

writing, to PacifiCorp and all PacifiCorp's contractors unescorted access to the location of the POD substation to perform all activities associated with the design, procurement and construction of PacifiCorp's substation and transmission lines.

4.4.4. The Parties will work in concert with Wasatch County Planning Department petitioning Wasatch County for approval of the creation of a new parcel from a portion of the Property to provide PacifiCorp with at least five (5) acres of property under PacifiCorp's ownership on which to construct and operate the POD substation (the "PacifiCorp Property"). The Parties will act together in the Wasatch County's process by, among other things, providing requested information, jointly attending meetings, and acting together in the defense of any necessary actions to create the PacifiCorp Property as a separate parcel for the POD substation. If the creation of a separate parcel cannot be completed within 60 days after the completion of construction, then Customer will convey to PacifiCorp a perpetual easement for the area of the PacifiCorp Property; in such case, the real property offsetting costs as described in Exhibit D shall be modified to reflect the value of the easement, which the Parties agree is \$381,002.00, rather than the fee value as currently listed on Exhibit D. The approximate boundaries of the PacifiCorp Property are shown on Exhibit E.

4.4.5. Customer shall be responsible for the design, construction, and maintenance of the berm. Additionally, Customer will be responsible for the design, construction, and maintenance of all landscaping on property owned by Customer and any property owned by PacifiCorp outside of the fenced substation. Prior to commercial operation of the Project, the Parties shall execute an agreement for the ongoing maintenance of the portions of the Property outside of the fenced substation areas, in substantially the form attached as Exhibit F.

4.5. Payment of Actual Costs. Customer shall reimburse Company for the actual cost to complete the work to complete the Project. Following completion of the Project, Company shall determine its actual costs for the Project identified in the Scope of Work. Company's actual costs shall include all direct costs plus applicable overheads. If the actual costs are more than the estimated costs, Company will forward a copy of the actual costs to Customer along with an invoice for the additional amount within one hundred twenty (120) calendar days after completion of construction. If the actual costs are less than the estimated costs, Company will forward a copy of the actual costs to Customer along with a refund to cover the overage. Company shall keep accurate and complete accounting records in support of all cost billings and claims in accordance with generally accepted accounting principles. Upon request, Company shall provide accounting records to Customer following completion of the Project.

## 5. TAXES:

5.1. Customer Payments Not Taxable. The Parties intend that all payments made by Customer to Company for the installation of the Project shall be non-taxable, either as contributions to capital, or as an advance, in accordance with the Internal Revenue Code ("IRC") and any applicable state income tax laws and shall not be taxable as contributions



in aid of construction or otherwise under the IRC and any applicable state income tax laws.

5.2. Indemnification for the Cost Consequences of Current Tax Liability Imposed Upon Company. Notwithstanding Section 5.1, Customer shall protect, indemnify and hold harmless Company from the cost consequences of any current tax liability imposed against Company as the result of payments made by Customer to Company under this Agreement for the Project, as well as any interest and penalties, other than interest and penalties attributable to any delay caused by Company.

Company shall not include a gross-up for the cost consequences of any current tax liability in the amounts it charges Customer under this Agreement unless (i) Company has determined, in good faith, that the payments or property transfers made by Customer to Company should be reported as income subject to taxation or (ii) any governmental authority directs Company to report payments or property as income subject to taxation. Customer shall reimburse Company for such costs on a fully grossed-up basis, in accordance with Section 5.3, within thirty (30) calendar days of receiving written notification from Company of the amount due, including detail about how the amount was calculated.

5.3. Tax Gross-up Amount. Customer's liability for the cost consequences of any current tax liability under this Section 5 shall be calculated on a fully grossed-up basis. Except as may otherwise be agreed to by the Parties, this means that Customer will pay Company, in addition to the amount paid for the Project, an amount equal to (1) the current taxes imposed on Company ("Current Taxes") on the excess of (a) the gross income realized by Company as a result of payments made by Customer to Company under this Agreement (without regard to any payments under this Article) (the "Gross Income Amount") over (b) the present value of future tax deductions for depreciation that will be available as a result of such payments (the "Present Value Depreciation Amount"), plus (2) an additional amount sufficient to permit Company to receive and retain, after the payment of all Current Taxes, an amount equal to the net amount described in clause (1).

For this purpose, (i) Current Taxes shall be computed based on Company's composite federal and state tax rates at the time the payments or property transfers are received and Company will be treated as being subject to tax at the highest marginal rates in effect at that time (the "Current Tax Rate"), and (ii) the Present Value Depreciation Amount shall be computed by discounting Company's anticipated tax depreciation deductions as a result of such payments by Company's current weighted average cost of capital. Thus, the formula for calculating Customer's liability to Company pursuant to this Article can be expressed as follows:

***(Current Tax Rate x (Gross Income Amount – Present Value of Tax Depreciation)) / (1- Current Tax Rate).***

5.4. Contests. In the event any governmental authority determines that Company's receipt of payments or property constitutes income that is subject to taxation, Company shall notify Customer, in writing, within thirty (30) calendar days of receiving notification



of such determination by a governmental authority.

5.5. Refund. In the event that (a) a private letter ruling is issued to Company which holds that any amount paid by Customer to Company under the terms of this Agreement is not subject to federal income taxation, (b) any legislative change or administrative announcement, notice, ruling or other determination makes it reasonably clear to Company in good faith that any amount paid by Customer to Company under the terms of this Agreement is not taxable to Company, (c) any abatement, appeal, protest, or other contest results in a determination that any payments made by Customer to Company are not subject to federal income tax, or (d) if Company receives a refund from any taxing authority for any overpayment of tax attributable to any payment by Customer to Company pursuant to this Agreement, Company shall promptly refund to Customer the following:

(i) any payment made by Customer under this Section 5 for taxes that is attributable to the amount determined to be non-taxable, together with interest thereon;

(ii) interest on any amounts paid by Customer to Company for such taxes which Company did not submit to the taxing authority, calculated in accordance with the methodology set forth in FERC's regulations at 18 C.F.R. § 35.19a(a)(2)(iii) from the date payment was made by Customer to the date Company refunds such payment to Customer; and

(iii) with respect to any such taxes paid by Company, any refund or credit Company receives or to which it may be entitled from any governmental authority, interest (or that portion thereof attributable to the payment described in clause (i), above) owed to Company for such overpayment of taxes (including any reduction in interest otherwise payable by Company to any governmental authority resulting from an offset or credit); provided, however, that Company will remit such amount promptly to Customer only after and to the extent that Company has received a tax refund, credit or offset from any governmental authority for any applicable overpayment of income tax related to Company's Project.

The intent of this provision is to leave the Parties, to the extent practicable, in the event that no taxes are due with respect to any payment for the Project hereunder, in the same position they would have been in had no such tax payments been made.

6. PROJECT SCHEDULE. The Parties have agreed to the Estimated Schedule and Milestones attached as Exhibit C, Estimated Schedule and Milestones, for the completion of the Project. All project schedule milestones shall be best estimates of the time required to complete each Party's task(s) at the time the schedule was developed.

7. STANDARD OF WORK. All work performed pursuant to this Agreement by either Party or their agents shall be performed in a good and workmanlike manner in accordance with Good Utility Practice and with any and all prudent and Applicable Reliability Standards.

8. CHANGES. The Parties may at any time, in writing, mutually agree to changes and/or

additions within the general scope of this Agreement or any amendment hereto, direct the omission of or variation in work, or alter the schedule. If such direction results in a material change in the amount or character of the work, an equitable adjustment in estimated costs and other such provisions of this Agreement as may be affected shall be made and this Agreement shall be modified in writing accordingly.

No change shall be binding upon the Parties until a change order is executed by each Party which is in writing and expressly states that it constitutes a change order to this Agreement. The issuance of information, advice, approvals, or instructions verbally or by an exchange of e-mail or in any other manner short of a writing executed by both Parties shall not constitute an authorized change order pursuant to this provision.

All revisions to this Agreement, if originally filed at FERC, will be filed for acceptance at FERC by Company as an amended and restated agreement.

9. INSPECTION. Customer may, at its discretion and expense, inspect Company's construction work of the Project in progress upon reasonable notice and with supervision by Company. Company may, at its discretion and expense, inspect Customer's construction work of the Project in progress upon reasonable notice and with supervision by Customer. Customer will provide testing results to Company as specified in the technical specifications.

10. TESTING. Before the new facilities required for the Project are energized, such new facilities shall be tested by Company to ensure their safe and reliable operation in accordance with Good Utility Practice, all applicable FERC, NERC and WECC criteria and requirements, and all applicable federal, state, and local law, regulations, and requirements. If testing indicates that modifications are required, Customer shall bear the cost of all such modifications in accordance with Section 4 above, except to the extent that any such modifications are required as a result of Company's or its agents' or its subcontractors' negligence, willful misconduct, or failure to comply with Good Utility Practice.

11. RIGHT TO STOP WORK. Customer reserves the right, upon thirty (30) days advance written notice to Company, to require Company at any time to stop all work by Company pursuant to this Agreement, provided that such stop-work order is the result of suspension or termination of the Project. Issuance of any such stop-work order shall terminate this Agreement. Upon issuance of any such stop-work order, Customer shall pay the Direct Assignment Facilities costs (net of Offsetting Costs) Company has incurred prior to the stoppage of work, including, without limitation, the costs incurred in connection with the cancellation of third-party contracts and any cancellation costs for equipment that is already ordered for the Project.

12. GOVERNING LAW. Enforcement or interpretation of this Agreement shall be in the state court of the State of Utah, and all parties hereby submit to the jurisdiction of said court for the stated purpose. Furthermore, this Agreement shall be governed by and construed in accordance with the laws of the State of Utah.

13. NO PARTNERSHIP. This Agreement shall not be interpreted or construed to create an association, joint venture, agency relationship, or partnership between the Parties or to impose any partnership obligation or partnership liability upon either Party. 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.

14. ASSIGNMENT. Company may at any time assign its rights and delegate its obligations under this Agreement, in whole or in part, including, without limitation, transferring its rights and obligations under this Agreement to any: (i) affiliate; (ii) successor in interest with respect to the Project, or (iii) corporation or any other business entity in conjunction with a merger, consolidation or other business reorganization to which Company is a party. Affiliate of Company includes any entity in which Berkshire Hathaway, Inc. owns more than a 5% interest, over which Berkshire Hathaway exercises management control. Should such assignment take place, Company will provide written notice to Customer. Customer shall not assign its rights, nor delegate its obligations, under this agreement without the prior written consent of Company, which shall not be unreasonably withheld, and any attempted transfer in violation of the restriction shall be void.

15. PROVISIONAL REMEDIES. Either Party may seek provisional legal remedies, if in such Party's judgment such action is necessary to avoid irreparable damage or preserve the status quo.

16. ENTIRE CONTRACT. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and there are no oral or written understandings, representations or commitments of any kind, express or implied, which are not expressly set forth herein.

17. NOTICES. Any correspondence regarding this work shall be directed to the appropriate party (or parties) as shown below:

Customer: Heber Light & Power Company  
Attn: General Manager  
31 South 100 West  
Heber City, UT 84032

Company: Vice President, Transmission Services  
825 NE Multnomah St., Suite 1600  
Portland, OR 97232

18. PAYMENT. Payments shall be sent to:

US Mail Deliveries: Company Transmission  
P.O. Box 2757  
Portland, OR 97208

Other Deliveries: Company Transmission  
Attn: Central Cashiers  
825 NE Multnomah St., Suite 550  
Portland, OR 97232

19. INDEMNIFICATION. Customer ("Indemnifying Party") agrees to protect, defend,

indemnify and hold harmless the Company, its officers, employees and agents (collectively, the "Indemnified Party") against and from any and all liability, suits, loss, damage, claims, actions, costs and expenses of any nature, including court costs and attorney's fees, even if such actions or claims are completely groundless, growing out of injury to or death of the Indemnifying Party or its subcontractors of any tier, their employees, agents or guests, or any other person or persons, or any and all destruction, loss or damage to property arising in any way in connection with, or related to, the Company's performance of any work or any of its obligations under the Agreement, except as to injury to persons or damage to property on the work site caused by the sole negligence of the Indemnified Party.

Moreover, at the request of the Indemnified Party, the Indemnifying Party shall defend any action, claim or suit asserting a claim that might be covered by this indemnity. The Indemnifying Party shall pay all costs and expenses that may be incurred by the Indemnified Party in enforcing this indemnity and defense agreement, including attorney's fees actually paid by the Indemnified Party.

20. LIMITATION OF LIABILITY. Except as otherwise expressly provided in this Agreement, each Party's liability to the other Party for any loss, cost, claim, injury, damage, liability, or expense, including reasonable attorney's fees, relating to or arising from any act or omission in its performance of this Agreement, shall be limited to the amount of direct damage actually incurred. In no event shall either Party be liable to the other Party for any indirect, special, consequential, or punitive damages, except as specifically authorized by this Agreement.

21. FORCE MAJEURE. A Party shall not be subject to any liability or damages for inability to meet its obligations under this Agreement to the extent that such failure shall be due to causes beyond the control of the Party, including, but not limited to the following: (a) the operation and effect of any new or modified rules, regulations and orders promulgated by FERC, any applicable state public utility commission, any municipality, or any governmental agency of the United States, or subdivision thereof (so long as the claiming party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such government action); (b) restraining order, injunction or similar decree of any court; (c) any Force Majeure event.

Force Majeure shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any order, regulation or restriction imposed by governmental, military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure.

The Party claiming Force Majeure shall make every reasonable attempt to remedy the cause thereof as diligently and expeditiously as possible. Except for the obligation to pay amounts owed when due, time periods for performance obligations of either Party herein shall be extended for the period during which Force Majeure was in effect.

22. SUCCESSORS. This Agreement will be binding upon the Parties and will inure to the benefit of their respective successors.

23. SEVERABILITY. If any provision or portion of this Agreement shall for any reason be



held or adjudged to be invalid or illegal or unenforceable by any court of competent jurisdiction or other governmental authority, (1) such portion or provision shall be deemed separate and independent, (2) the Parties shall negotiate in good faith to restore insofar as practicable the benefits to each Party that were affected by such ruling, and (3) the remainder of this Agreement shall remain in full force and effect.

24. 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 LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT. EACH PARTY FURTHER WAIVES ANY RIGHT TO CONSOLIDATE, OR TO REQUEST THE CONSOLIDATION OF, 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.

25. MULTIPLE COUNTERPARTS. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

26. CONTRACTORS AND SUBCONTRACTORS. Nothing in this Agreement shall prevent Company or Customer from utilizing the services of any third party contractor or subcontractor as it deems appropriate to perform its obligations under this Agreement; provided, however, that Company and Customer shall require a third party contractor and subcontractor to comply with all applicable terms and conditions of this Agreement in providing such services and each Party shall remain primarily liable to the other Party for the performance of such third party contractor and subcontractor.

27. NO THIRD-PARTY BENEFICIARIES. Other than UAMPS as described herein, this Agreement is not intended to and does not create rights, remedies, or benefits of any character whatsoever in favor of any persons, corporations, associations, or entities other than the Parties, and the obligations herein assumed are solely for the use and benefit of the Parties, their successors in interest and where permitted, their assigns.

28. SURVIVAL. All payment obligations and liabilities incurred before the termination or expiration of this Agreement, will survive its termination or expiration.

29. MODIFICATIONS OR AMENDMENTS. No modification or amendment of any provision of this Agreement shall be effective unless set forth in a written document signed by authorized representatives of the Parties.

30. RECITALS. The above stated recitals are incorporated into and made part of this Agreement by this reference to the same extent as if these recitals were set forth in full at this point.

31. WAIVER. Waiver of any right, privilege, claim, obligation, condition, or default shall be in writing and signed by the waiving Party. No waiver by a Party of any breach of this Agreement shall be a waiver of any preceding or succeeding breach, and no waiver by a Party of any right under this Agreement shall be construed as a waiver of any other right.

32. DISPUTE RESOLUTION.

32.1. Submission. In the event either Party has a dispute, or asserts a claim, that arises out of or in connection with this Agreement, such Party shall provide the other Party with written notice of the dispute or claim ("Notice of Dispute"). Such dispute or claim shall be referred to a designated senior representative of each Party for resolution on an informal basis as promptly as practicable after receipt of the Notice of Dispute by the other Party. In the event the designated representatives are unable to resolve the claim or dispute through unassisted or assisted negotiations within thirty (30) calendar days of the other Party's receipt of the Notice of Dispute, such claim or dispute may, upon mutual agreement of the Parties, be submitted to arbitration and resolved in accordance with the arbitration procedures set forth below. In the event the Parties do not agree to submit such claim or dispute to arbitration, each Party may exercise whatever rights and remedies it may have in a Federal court under Federal law.

32.2. Arbitration Procedures

Any arbitration initiated under these procedures shall be conducted before a single neutral arbitrator appointed by the Parties. If the Parties fail to agree upon a single arbitrator within ten (10) calendar days of the submission of the dispute to arbitration, each Party shall choose one arbitrator who shall sit on a three-member arbitration panel. The two arbitrators so chosen shall within twenty (20) calendar days select a third arbitrator to chair the arbitration panel. In either case, the arbitrators shall be knowledgeable in electric utility matters, including electric transmission and bulk power issues, and shall not have any current or past substantial business or financial relationships with any party to the arbitration (except prior arbitration). The arbitrator(s) shall provide each of the Parties an opportunity to be heard and, except as otherwise provided herein, shall conduct the arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association.

32.3. Arbitration Decisions

Unless otherwise agreed by the Parties, the arbitrator(s) shall render a decision within ninety (90) calendar days of appointment and shall notify the Parties in writing of such decision and the reasons therefore. The arbitrator(s) shall be authorized only to interpret and apply the provisions of this Agreement and shall have no power to modify or change any provision of this Agreement in any manner. The decision of the arbitrator(s) shall be final and binding upon the Parties, and judgment on the award may be entered in any court having jurisdiction. The decision of the arbitrator(s) may be appealed solely on the grounds that the conduct of the arbitrator(s), or the decision itself, violated the standards set forth in the Federal Arbitration Act or the Administrative Dispute Resolution Act. The final decision of the arbitrator must also be filed with FERC if it affects jurisdictional rates, terms and conditions of service.

32.4. Costs


Each Party shall be responsible for its own costs incurred during the arbitration process and for the following costs, if applicable: (1) the cost of the arbitrator chosen by the Party to sit on the three-member panel and one half of the cost of the third arbitrator chosen; or

(2) one half the cost of the single arbitrator jointly chosen by the Parties.

IN WITNESS WHEREOF, the Parties hereto have entered into this Agreement effective as of the day and year first herein above written.

COMPANY

**Rick Vail**

 Digitally signed by Rick Vail  
Date: 2021.06.09 06:27:48 -07'00'

Signature

Rick Vail

Printed Name of Signor

VP, Transmission

Title of Signor

06/09/2021

Date

CUSTOMER



Signature

Jason Norlen

Printed Name of Signor

General Manager

Title of Signor

6-3-2021

Date





## **Exhibit B**

### **Estimated Scope of Work**

#### ***Transmission System Modifications***

Company to design, construct, and own a loop in/out of the Jordanelle – Midway 138 kV line at the new Heber substation (also known as the Daniels substation).

UAMPS or Heber Light & Power to convey any and all property/permits/Right of Way to Company for the transmission lines and access to the line structures. Line easements to be in perpetuity. Refer to Section 4 of the construction agreement.

#### ***Protection Requirements***

Company to design, construct, and own a Permissive Over-Reaching Transfer Trip ("POTT") with two reclose operations following a 0.9 second and 15 second delay for the Silver Creek (Jordanelle) line. The reclosing will be supervised by sync-check or dead line check. Bus differential relaying for the two tie lines to Heber Light & Power will also be installed.

Required equipment includes

- 1 – line current differential relay panel
- 1 – POTT line relay panel
- 2 – bus differential panels
- 4 – breaker control panels
- 1 – annunciator panel
- 1 – GPS clock & RTAC panel

#### ***Substation Requirements***

Company to design, construct, and own a new four breaker ring bus substation (built to expand to more breakers). The following equipment will be installed:

- 4 – 138 kV, 2000 A, 40 kA, circuit breaker, with 18 CT's
- 8 – 138 kV, CCVT,
- 12 – 138 kV surge arrester
- 12 – 138 kV, 2000 A, switch, breaker disconnect, VBHM
- 4 – 138 kV, 2000 A, switch, line disconnect, VBVM
- 1 – 138 kV SSVT
- 1 – Generator
- 1 – Control house

UAMPS or Heber Light and Power to convey property ownership for PacifiCorp's new substation and perpetual easements for access from 650 South at the north end of the property to PacifiCorp's new substation. Refer to Section 4 of the Construction Agreement.

#### ***Communication Requirements***

Company to design, construct, and own electronic communications support for the Jordanelle – Daniels – Midway 138 kV line installation in conjunction with Heber Light & Power. This will require the following:

- Slack brackets and splices cases on the Midway line dead end and the Silver Creek (Jordanelle) line dead end.
- ADSS underground from the Midway line dead end and from the Silver Creek (Jordanelle) line dead end to separate fiber patch panels inside the control house.
- Ciena 3926 fiber node and a Loop AM3440 multiplex to support the required relaying and SCADA circuits. Install a 48 Volt battery and charger system. Connect the 11A relays to the Orion RTU for fault locating.

Note: This proposed line will have ½" equivalent OPGW installed on it and the OPGW will provide the path for the relay protection scheme for the Midway – Daniels – Silver Creek 138 kV line.

In addition, Company to design, construct, and own the electronic communication circuits to support the Naughton RAS (including removals at Birch Creek Substation and additions at Railroad Substation) and the relaying between Hale - Midway, between Midway - Daniels, and between Daniels -Silver Creek and the SCADA changes and additions at all of the above-mentioned substations.

### ***Metering Requirements***

Metering will be owned and installed by UAMPS per the amended and restated transmission service and operating agreement between UAMPS and PacifiCorp.

**Exhibit C**  
**Estimated Schedule and Milestones**

The estimated schedule and milestones are driven by the below timeframes which may be adjusted through the course of the Project. If there is a delay in any of the below activities, there will be, at a minimum, a day for day slip in the entire schedule. Any delays in the Project have the potential to affect the entire schedule.

<b>Milestones</b>	<b>Estimated Date</b>
Customer Property/Permits/ROW Procured	Already Completed by HLP
Customer Design Information Provided	October 12, 2020
Execute Construction Agreement	Feb. 15, 2021
*PacifiCorp Engineering & Procurement Commences	March 1, 2021
PacifiCorp Engineering Design Complete	Sept. 24, 2021
Construction Begins	Dec. 1, 2021
Construction Ends	Aug. 1, 2022
Commissioning/Testing	Aug. 15, 2022
Commercial Operation	Aug. 31, 2022

**Exhibit D**  
Estimated Cost

Project Management	\$23,782
Construction Services	\$827,625
Materials	\$702,563
Operations	\$62,030
Other	<u>\$54,000</u>
<b>Total Direct Assigned</b>	<b>\$1,670,000</b>

Network Upgrades	
Project Management	\$65,125
Construction Services	\$3,237,974
Materials	\$1,584,897
Operations	\$122,162
Engineering	\$398,009
Other	<u>\$6,833</u>
<b>Total Network Upgrades</b>	<b>\$5,415,000</b>

<b>Offsetting Costs</b>	
Real Property	\$423,335
Permitting Support	\$54,224
Site Prep Design	\$62,931
Landscape Berm Costs	\$213,050
Access Road Easement	\$69,850
Other	<u>\$</u>
<b>Total Offsetting Costs</b>	<b>\$823,390</b>

**Exhibit E**  
Approximate location of PacifiCorp property



**Exhibit F**  
Maintenance Agreement

## **PROPERTY MAINTENANCE AGREEMENT**

This Property Management Agreement (the "**Agreement**") is made and entered into as of \_\_\_\_\_ by and between HEBER LIGHT & POWER COMPANY, a Utah energy services interlocal entity ("**HLP**"), and ROCKY MOUNTAIN POWER, an unincorporated division of PacifiCorp \_\_\_\_\_ ("**RMP**"), regarding the maintenance of the property as shown on Exhibit A (the "**Property**") where HLP and RMP have built their respective substations. HLP and RMP may be referred to herein individually as a "**Party**" or collectively as the "**Parties.**"

### **RECITALS**

WHEREAS, the Parties have each built a substation on the Property located in Wasatch County; and

WHEREAS, portions of the Property, including the landscaped berm around the substation areas, are necessary to both Parties in order to access the respective substations and to comply with local requirements; and

WHEREAS, Wasatch County requires that the Property be maintained in accordance with certain landscaping requirements, as dictated by the applicable conditional use permit issued by Wasatch County; and

WHEREAS, the Parties desire HLP to maintain the Property's landscaping in accordance with the applicable requirements; and

WHEREAS, the Parties desire to set forth the terms and conditions by which RMP will compensate HLP for maintaining the Property's landscaping.

### **AGREEMENT**

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the Parties agree as follows:

#### **1. ARTICLE 1—MAINTENANCE OF THE PROPERTY**

HLP shall maintain the Property's landscaping so that it complies with local requirements and ordinances. HLP will document the costs it incurs maintaining the Property and retain that documentation for RMP's inspection for a period of at least six months after HLP invoices RMP for RMP's portion of the costs pursuant to Article 2 in this Agreement.

For purposes of this Agreement, the term Property shall not include the areas inside the fences of the respective substations. Nor shall the term Property include the existing house and approximately five acres of property surrounding the house.

## **2. ARTICLE 2—SHARED EXPENSES**

RMP shall pay for one-half (1/2) of all costs incurred by HLP to maintain the Property's landscaping in compliance with local ordinances (the "RMP Share"). RMP shall pay the RMP Share of the costs no later than thirty (30) days after receiving an invoice for such costs from HLP.

## **3. ARTICLE 3—TERM**

This Agreement shall continue indefinitely until terminated or modified by the Parties.

## **4. ARTICLE 4—GOVERNING LAW**

This Agreement is made in the State of Utah, under the Constitution and laws of this State, and is to be construed pursuant to such laws.

## **5. ARTICLE 5—SEVERABILITY**

Should any part, term, or provision of this Agreement be held by the Courts to be illegal or in conflict with any law of the State of Utah, or otherwise rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected by such ruling.

## **6. ARTICLE 6—AUTHORITY**

The signatories below represent and affirm that they are authorized to sign on behalf of their respective organizations.

### **ROCKY MOUNTAIN POWER**

By: \_\_\_\_\_

Name:

Title:

### **HEBER LIGHT & POWER COMPANY**

By: \_\_\_\_\_

Jason Norlen, General Manager



**EXHIBIT A**  
to Property Maintenance Agreement

*Property Map*