

November 23, 2016

***VIA ELECTRONIC FILING***

Public Utility Commission of Oregon  
201 High Street SE, Suite 100  
Salem, OR 97301-3389

Attn: Filing Center

**RE: UPN 23 – PacifiCorp Notice of Property Disposition—Sale of Real Property to Rocky Mountain Elk Foundation, Inc.**

Under ORS 757.480(2), PacifiCorp d/b/a/ Pacific Power (PacifiCorp or Company) hereby provides notice of the disposition of property necessary or useful in the provision of utility service (Notice).

PacifiCorp executed an Agreement for Sale and Purchase of Real Property and a corresponding Addendum No. 1 (Agreement) with Rocky Mountain Elk Foundation, Inc. (RMEF) for certain property located in Emery County, Utah. The Agreement is included with this Notice as Attachment A. The subject property (Property) is a 10.61-acre parcel south of Electric Lake which is part of a larger property that was originally purchased by PacifiCorp for the construction of Electric Lake. The Property is dissected from the rest of the parcel owned by PacifiCorp and has recently been used as a public recreation area with trailhead parking. This area is popular with hunters attempting to access adjacent public lands managed by the US Forest Service. The parking area is unpaved and located near a blind corner off of Highway 31. With many trucks and trailers accessing this parcel, there is potential for liability should a vehicle accident occur. PacifiCorp has no facilities on the Property, but uses it to as an access point for regular inspections of the nearby repeater station on adjacent lands.

RMEF offered to broker a land sale of the property on behalf of the US Forest Service, Utah Division of Wildlife Resources, and Emery County. PacifiCorp and RMEF agreed to a purchase price based on the fair market value of the Property. PacifiCorp obtained third-party appraisals to determine a market value of approximately \$37,135.00. The Agreement is dated June 28, 2016, and Addendum No. 1 to the Agreement was executed September 26, 2016 to allow the U.S. Forest Service additional time to review the transaction documents. The transaction closed on October 12, 2016. In accordance with the Agreement, PacifiCorp will retain all mineral rights pursuant to a Special Warranty Deed, as well as a Right of Way Easement that ensures PacifiCorp has perpetual access rights for the purpose of constructing, operating, maintaining, repairing, renewing and installing the radio repeater. The Special Warranty Deed and the Right of Way Easement are included with this Notice as Attachment B and Attachment C, respectively.

RMEF plans to make improvements to the Property to enhance the public's use and safety, therefore, RMEF's ownership of the Property will benefit the local community and will not

interfere with PacifiCorp's ability to operate its facilities or impede access to PacifiCorp's property. The sale of the Property to RMEF will decrease PacifiCorp's potential liability related to the public use of the Property, while allowing PacifiCorp to retain access and mineral rights to the Property. Oregon-allocated proceeds from this transaction in the amount of \$9,008.23 will flow to customers through Schedule 96, the property sales balancing account. The public is not harmed because PacifiCorp will continue to be able to fulfill its obligation to provide safe, reliable electric service.

PacifiCorp respectfully requests that all correspondence and information requests regarding this matter be addressed to:

By E-mail (preferred): [datarequest@pacificorp.com](mailto:datarequest@pacificorp.com).

By regular mail: Data Request Response Center  
PacifiCorp  
825 NE Multnomah, Suite 2000  
Portland, OR 97232

Please direct informal questions with respect to this filing to Natasha Siores at 503-813-6583.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Bryce Dalley", with a long horizontal flourish extending to the right.

R. Bryce Dalley  
Vice President, Regulation

**ATTACHMENT A**

**AGREEMENT FOR SALE AND PURCHASE OF REAL PROPERTY**

COPY

**AGREEMENT  
FOR SALE AND PURCHASE  
OF REAL PROPERTY**

This Agreement for Sale and Purchase of Real Estate (the "Agreement") is entered into as of the 28<sup>th</sup> day of JUNE, 2016, by and between **PacifiCorp, doing business as Rocky Mountain Power**, successor in interest to Utah Power & Light Company, ("Seller") and the **Rocky Mountain Elk Foundation, Inc.**, a Montana Non-Profit Corporation ("Buyer").

**RECITALS**

- A. Seller owns that certain parcel of real property, referenced as "Seller's Parcel", located in Emery County, State of Utah.
- B. Buyer desires to purchase Seller's Parcel together with all improvements, appurtenances, rights, privileges and easements belonging thereto (collectively referred to herein as the "Property") as more particularly shown in Exhibits "A" and "B" attached hereto and by this reference made a part of this Agreement.

**TERMS AND CONDITIONS**

In consideration of the amounts to be paid and the mutual promises contained herein, the receipt and acceptance of which is hereby acknowledged, Buyer and Seller agree as follows:

**ARTICLE I  
AGREEMENT TO PURCHASE AND SELL; PURCHASE PRICE**

- 1.1 Purchase and Sale. In accordance with the terms and conditions set forth in this Agreement Seller agrees to sell and convey to Buyer, and Buyer agrees to purchase and take from Seller, all right, title and interest in and to the Property, together with and subject to all improvements, appurtenances, rights, privileges and easements belonging thereon, unless otherwise expressly stated in this Agreement. Any water rights associated with the Property are not included as part of this Agreement.
- 1.2 Purchase Price. The purchase price for the Property (the "Purchase Price") is the fair market value of the Property as determined by appraisal as follows:
- (a) The Property will be appraised at its fair market value by a qualified state certified professional appraiser selected by Seller and acceptable to Buyer, using methods and procedures in compliance with the Uniform Standards of Professional Appraisal Practices ("USPAP"). The appraisal and the fair market value determination must be acceptable to Seller and Buyer. Seller and Buyer will equally share the cost of the appraisal. Seller and Buyer will have the right to review the appraisal for compliance with applicable appraisal standards. Both Seller and Buyer must provide the other party with written notice that the appraisal is not acceptable within thirty (30) days of receipt of the appraisal, or the appraisal will be deemed to be acceptable. If the

appraisal is not acceptable to Seller or Buyer, Seller shall have no other obligation to Buyer in connection with this Agreement or the Property and the Earnest Money Deposit shall be refunded to the Buyer.

1.3 Payment of Purchase Price. Buyer shall pay the Purchase Price to Seller as follows:

(a) Upon execution of this Agreement Buyer shall pay an earnest money deposit of One Thousand Dollars (\$1,000.00) (the "Earnest Money Deposit"), delivered to South Eastern Utah Title Company (the "Title Company"), to be held in its trust account and credited toward the Purchase Price on the Closing Date. The Earnest Money Deposit shall be non-refundable except as specifically stated herein.

(b) Buyer shall pay the balance of the Purchase Price in cash, by cashier's check or other immediately available funds on the Closing Date, as adjusted for proration on the Closing Date as provided herein.

1.4 Legal Description, Survey and Division. The parties acknowledge that a survey and subdivision or boundary line adjustment of the Property is required, but until such action is conducted, the Property is more particularly described as indicated in Exhibit "A" and depicted in the map in Exhibit "B." Buyer shall pay the cost of the survey, and to have the survey recorded, if required. Seller shall pay any costs to have the Property subdivided or have the boundary line for the Property adjusted, if required.

1.5 Direct Deed to Government Agency. At Buyer's election, Buyer may direct that Seller convey title to the Property directly to a governmental agency for management for the public benefit. Such direction by RMEF shall not relieve Seller of any of its obligations hereunder.

## ARTICLE II TITLE INSURANCE

2.1 Commitment of Title Insurance.

(a) Title Company has delivered to Buyer a commitment for title insurance covering the Property (the "Commitment").

(b) Buyer shall have twenty (20) days following execution of this Agreement to provide any written objections to any matter set forth on Schedule B of the Commitment. If Buyer does not timely deliver written notice of objection to Seller, Buyer shall be deemed to have approved of all matters set forth in the Commitment. Matters which Seller has agreed to discharge pursuant to Section 2.1 (c) and any encumbrances or other title exceptions to which Buyer does not object in writing within the twenty (20) day period set forth above shall be deemed to be "Permitted Exceptions" and shall not be considered objections to any matter contained in the Commitment.

(c) If Buyer provides a written notice of objections in accordance with Section 2.1 (b), then Seller shall have the option to: (i) cure such objections at Seller's sole cost; or (ii) terminate this Agreement.

(d) Buyer's sole remedy for Seller's inability or unwillingness to convey title subject only to the Permitted Exceptions or to cure Buyer's objections in accordance with Section 2.1 (c) shall be to terminate this Agreement. In that case, Seller shall have no other obligation to Buyer in connection with this Agreement or the Property and the Earnest Money Deposit shall be refunded to the Buyer.

2.2 Delivery of Title Insurance. Except as otherwise stated in Section 2.1, Seller shall obtain and deliver to Buyer within thirty (30) days after the Closing Date an ALTA Standard Owner's Policy of title insurance in the amount of the Purchase Price, effective as of the Closing Date and containing no exceptions other than the Permitted Exceptions and all standard exceptions to standard owner's policies. Seller shall pay the cost of the above described title insurance policy.

### **ARTICLE III REPRESENTATIONS AND WARRANTIES**

#### 3.1 Representations and Warranties of Seller.

(a) Seller has the right, power and authority to execute, deliver and perform this Agreement, and to carry out Seller's obligations under this Agreement.

(b) Seller shall indemnify, defend and hold Buyer harmless from and against any and all claims, loss or damage relating to or arising out of any claim for compensation by any broker, person or entity claiming by or through Seller in connection with the purchase and sale transaction described herein.

(c) Seller knows of no easements, rights-of-way, reservations, restrictions, encumbrances, or liens which affect the Property but which are not of record, whether acquired by prescription or otherwise, other than those described in this Agreement.

(d) No other person is in possession of the Property or claims any rights in the Property which are adverse to the rights of Seller.

(e) There are no underground storage tanks on the Property, or any evidence of environmental contamination by any dangerous, hazardous or toxic materials as defined by any government agency;

(f) Seller has never manufactured, processed, treated, handled, stored, installed, released, or disposed of any "hazardous substances" (as defined in this paragraph) on or under the Property, that to the best of the Seller's knowledge no hazardous substances have ever been manufactured, processed, treated, handled, stored, installed, released, or disposed of on or under the Property, and to the best of Seller's knowledge no investigation, administrative proceeding, litigation, or other action has been proposed,

threatened, or brought alleging the presence, handling, storage, transportation, release, or disposal of hazardous substances on or under the Property. For the purposes of this paragraph, "hazardous substances" means any toxic, dangerous, or hazardous waste, substance, or material under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, any so-called Superfund or Superlien law, or any other federal, state, or local statute, law, ordinance, code, rule, regulation, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous waste, substance, or material;

3.2 Representations and Warranties of Buyer. Buyer makes the following representations and warranties to Seller, as of the date of this Agreement and as of the Closing Date, each of which representations and warranties shall survive the Closing and delivery of the Special Warranty Deed.

(a) Buyer has the right, power and authority to execute, deliver and perform this Agreement.

(b) Buyer shall indemnify, defend and hold Seller harmless from and against any and all claims, loss or damage relating to or arising out of any claim for compensation by any broker, person or entity claiming by or through Buyer in connection with the purchase and sale transaction described herein.

3.3 Acknowledgment by Buyer Regarding Seller's Representations and Warranties. Except as expressly set forth in other portions of this Agreement, Buyer hereby affirms that neither Seller nor its affiliates, partners, members, officers, managers, agents, consultants, contractors, employees or attorneys have made, nor has Buyer relied upon any representation, warranty, or promise (either express or implied) with respect to the Property or any other subject matter of this Agreement including, without limitation:

(a) the general plan designation, zoning, value, use, tax status or physical condition of any part of the Property or the improvements to the Property;

(b) the flood elevations, drainage patterns and soil and subsoil composition and compaction levels and other conditions at the Property;

(c) the accuracy of any soils reports or any other plans, studies, documents, reports, or any other information regarding the Property;

(d) the nature, physical condition or any other aspect of the Property; or

(e) the compliance of the Property with any laws or any other federal, state or local laws, ordinances, statutes, rules or regulations (including, without limitation environmental laws).

WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, BUYER HEREBY AGREES THAT WILL BE ACQUIRING THE PROPERTY BASED SOLELY UPON

BUYER'S OWN INVESTIGATION AND INSPECTION THEREOF, AND BUYER ACCEPTS THE PROPERTY FROM THE SELLER "AS IS", "WHERE IS", SUBJECT TO "ALL FAULTS" INCLUDING, BUT NOT LIMITED TO, BOTH LATENT AND PATENT DEFECTS, AND THE ENVIRONMENTAL CONDITION OR DEFECTS THEREOF. BUYER HEREBY WAIVES ALL WARRANTIES, REPRESENTATIONS, OR GUARANTIES OF ANY KIND, EXPRESS OR IMPLIED, REGARDING THE CONDITIONS AND THE USE OF THE SUBJECT PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE.

#### **ARTICLE IV SELLER'S USE OF THE PROPERTY**

4.1 Seller's Use of the Property Prior to Closing Date. From and after Seller's execution of this Agreement and except in the ordinary course of administering its general mortgage, Seller shall not grant or convey any easement, lease, license, permit or any other legal or beneficial interest in or to the Property or engage in any contract with any party other than Buyer regarding the purchase or sale of the Property, without the prior written consent of Buyer, at Buyer's sole discretion. Further, except as otherwise provided for herein, Seller agrees to pay, as and when the same are due, all payments on any encumbrances presently affecting the Property and any and all taxes, assessments and levies in respect of the Property through the Closing Date.

4.2 Seller's Use of the Property After the Closing Date. Seller reserves the right to continue to use those portions of the Property identified in Exhibit "B" for the purpose of ingress and egress to adjacent lands. On or before the Closing Date, Buyer shall grant to Seller one or more easements, in a form acceptable to Seller and Buyer, which will allow for such continued use and access or future related uses and access by Seller.

#### **ARTICLE V BUYER'S DUE DILIGENCE**

5.1 Buyer's Inspection. Buyer shall have until 5:00 PM, prevailing Mountain Time, on the date which is ninety (90) days after the execution date of this Agreement to inspect the Property (the "Due Diligence Period"). Buyer or its employees or agents may enter the Property upon twenty-four (24) hour notice to Seller to inspect the Property and perform surveys or tests as Buyer may elect; provided, however, that such entry shall not unreasonably interfere with the activities of Seller on the Property and Buyer shall, within a reasonable period of time, restore the Property to its original condition immediately prior to entry. Prior to the expiration of the Due Diligence Period, Buyer shall have the right to terminate this Agreement by written notice to Seller and the Title Company in the event Buyer, in its reasonable judgment, is not satisfied with the condition of the Property and the Title Company shall return the Earnest Money Deposit to the Buyer. In the event Buyer does not timely terminate this Agreement, as set forth above, on or before the expiration of the Due Diligence Period, the Earnest Money Deposit shall become non-refundable to Buyer, and fully earned by Seller, except as set forth in Section 6.4.



5.2 Repair Obligation and Indemnification. Buyer, at Buyer's sole cost and expense, will promptly repair any damage to the Property resulting from, or in connection with, Buyer's entry, inspections and tests of the Property and/or exercise of rights provided in this Section 5. Buyer shall release and indemnify Seller, its officers, directors, and employees, from and against any and all liability, claims, causes of actions, loss, personal injury, including death, and property damage arising from or caused by Buyer's access or use of the Property for those purposes allowed in this Section 5.

## ARTICLE VI CLOSING

6.1 Time and Place of Closing. The purchase and sale transaction contemplated by this Agreement shall be consummated through a closing conference (the "Closing") which shall be held at the Title Company on or before 'September 28, 2016', (the "Closing Date"), or at such earlier time and place as the parties may mutually agree in writing. Provided all conditions and prerequisites to the Closing set forth herein are fully met and satisfied, possession shall occur at closing.

6.2 Actions at Closing. At the Closing, the following events shall occur and each being declared to have occurred simultaneously with the other:

(a) All documents to be recorded and funds to be delivered hereunder shall be delivered to the Title Company in escrow, to hold, deliver, record and disburse in accordance with supplemental escrow instructions, the form and content of which shall be agreed to by the parties prior to Closing.

(b) At the Closing or sooner as otherwise stated in the escrow instructions, the following shall occur:

(i) Seller shall deliver or cause to be delivered in accordance with the escrow instructions:

(1) Special Warranty Deed conveying the Property to Buyer, duly executed and acknowledged by Seller and in proper form generally for recording in Utah; and

(2) All other documents required to be executed by Seller pursuant to the terms of this Agreement.

(ii) Buyer shall deliver or cause to be delivered in accordance with the escrow instructions:

(1) The balance of the purchase price to be paid as provided in Section 1.3 hereof;

(2) A fully executed Right of Way Easement as mutually agreed between the parties; and

(3) All other documents required to be executed by Buyer pursuant to the terms so this Agreement.

(c) Buyer and Seller shall each deliver to the other, two executed copies of the Buyer's and Seller's Statement of Settlement setting forth all prorations, credits provided in this Agreement, disbursements of the purchase price, and expenses of the Closing.

(d) Buyer shall pay for any Closing or escrow charges of the Title Company.

6.3 Seller's Remedies. In the event this transaction fails to close due to Buyer's fault or inability to close, Seller shall be entitled to retain the Earnest Money Deposit.

6.4 Buyer's Remedies. In the event this transaction fails to close due to Seller's fault, Buyer shall be entitled to have the Earnest Money Deposit returned to Buyer and this Agreement shall be declared void and of no effect. Buyer shall not have any other remedies available to Seller. Without limiting the generality of the foregoing, Buyer hereby waives any rights to seek or obtain monetary damages, punitive damages, consequential damages, or special damages

## **ARTICLE VII PRORATIONS**

7.1 Prorations Between Seller and Buyer. The following prorations shall be made between Seller and Buyer as of the Closing Date:

(a) Real property taxes and assessments on the Property for the year of Closing shall be prorated between Seller and Buyer based on the number of days each owned the Property. In the event the Property constitutes some portion of a larger tract of land, such proration shall be based upon the average of the Property as a percentage of the acreage of the entire tract. If, as of the Closing Date, the actual tax bills for the year or years in question are not available and the amount of taxes to be prorated cannot be ascertained, then the most recent known rates, mill ages and assessed valuations (which amounts shall relate to the same tax year) shall be used and such most recent rates, mill ages, and assessed valuations shall be considered final for all purposes.

(b) Other Closing costs shall be apportioned between the parties in accordance with the normal and customary practice of commercial real estate transactions in Emery County, Utah.

## **ARTICLE VIII RELEASE, ASSUMPTION AND INDEMNITY**

Seller agrees to defend, indemnify and hold harmless Buyer and its officers, directors, shareholders, members, volunteers, employees, partners, agents and representatives from and against all claims, demands, obligations, losses, liabilities, damages, recoveries and deficiencies, including interest, penalties and reasonable attorneys' fees, costs and expenses arising out of, resulting from or related in any way whatsoever to the obligations under this Agreement resulting from Seller's negligence or willful misconduct which arose or accrued prior to and relate to the period prior to the Closing Date.

Buyer agrees to defend, indemnify and hold harmless Seller and its officers, directors, employees, partners, agents and representatives from and against all claims, demands, obligations, losses, liabilities, damages, recoveries and deficiencies, including interest, penalties and reasonable attorneys' fees, costs and expenses arising out of, resulting from or related in any way whatsoever to the obligations under this Agreement resulting from Buyer's negligence or willful misconduct which arose or accrued prior to and relate to the period following the Closing Date. This mutual indemnity shall survive termination and/or expiration of this Agreement.

## **ARTICLE IX MISCELLANEOUS**

9.1 Condemnation. If a portion of the Property becomes the subject of condemnation proceedings, Seller shall notify Buyer of such proceedings, and Buyer may elect, at Buyer's discretion, to terminate this Agreement and recover the Earnest Money Deposit.. If Buyer does not elect to terminate this Agreement, this Agreement shall remain in full force and effect, and at Closing (a) Seller shall pay to Buyer all condemnation awards or proceeds from any such proceedings or actions in lieu thereof received by Seller to the date of Closing, and (b) Seller shall assign to Buyer all of Seller's rights to defend such proceedings or actions in lieu thereof, and Buyer shall take the Property subject to any such proceedings. The Purchase Price shall not be adjusted for any such proceedings, and if the Purchase Price is calculated using the acreage of the Property, such acreage shall not be reduced by any land taken by condemnation, but rather the acreage for purposes of such calculation shall be the acreage of the Property prior to the condemnation. Notwithstanding the foregoing, if the price-per-acre from the condemnation awards or proceeds from any such proceedings differs from the price-per-acre from the appraisal described in Section 1.2(a), the parties shall mutually agree to adjust the Purchase Price to reflect such difference. As used herein, the phrase "becomes the subject of condemnation proceedings" shall mean the service upon Seller of a formal notice of condemnation by a governmental authority with power of eminent domain, specifying that all or a portion of the Property is subject to such proceeding or action.

### 9.2 Casualty.

(a) If the Property shall be damaged by any casualty prior to Closing, and the loss in value to the Property because of such casualty (the Valuation Loss"), as estimated by Seller in Seller's sole but reasonable discretion, is less than or equal to ten percent (10%) of the Purchase Price, then this Agreement shall continue in full force and effect and the Closing shall occur as otherwise provided herein, without any adjustment to the Purchase Price.

(b) If the Property shall be damaged by any casualty prior to Closing, and the Valuation Loss, as estimated by Seller in Seller's sole but reasonable discretion, is more than ten percent (10%) of the Purchase Price, then either Seller or Buyer may elect to terminate this Agreement, by written notice to the other party given not more than ten (10) days after receipt of written notice from Seller to Buyer of Seller's estimate of the Valuation Loss, which estimate notice Seller shall give within thirty (30) days after the casualty. If neither party elects to so terminate this Agreement, then this Agreement shall continue in full force and effect and the Closing shall occur as otherwise provided herein, without any adjustment to the Purchase Price.

9.3 Entire Agreement. This Agreement contains the entire agreement between the parties respecting the matters herein set forth and supersedes all prior agreements, which written or oral, between the parties respecting such matters. Any amendments or modifications hereto in order to be effective shall be in writing and executed by the parties hereto.

9.4 Amendments. This Agreement may be amended or modified only by mutual written agreement.

9.5 Survival. All warranties, representations, covenants and agreements contained in this Agreement shall survive the execution and delivery of this Agreement and all documents delivered in connection with this Agreement and shall survive the Closing of the transactions contemplated by this Agreement and all performances in accordance with this Agreement.

9.6 Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, heirs, administrators, and assigns; provided, however, that notwithstanding the foregoing, Buyer's interest under this Agreement may be assigned, encumbered, or otherwise transferred, whether voluntarily, involuntarily, by operation of law or otherwise.

9.7 Notices. Any notice, demand or document which any party is required or any party desires to give or deliver to or make upon any other party shall be in writing, and may be personally delivered or given or made by recognized overnight courier service or by United States registered or certified mail, return receipt requested, with postage prepaid, addressed as follows:

To Seller: Rocky Mountain Power  
Real Estate Transaction Services  
1407 West North Temple Street, Suite 110  
Salt Lake City, Utah 84116  
Attn: Erik Carlson

With a copy to: Rocky Mountain Power  
Attn: Legal Department  
1407 West North Temple Street, Suite 320  
Salt Lake City, Utah 84116  
Attn: Daniel Solander

To Buyer: RMEF Lands Department  
5705 Grant Creek Road  
Missoula, MT 59808  
[lverhaeghe@rmef.org](mailto:lverhaeghe@rmef.org)

With a copy to: Bob Hammond  
622 Freeman Lane  
Mt. Shasta, CA 96067  
[bhammond@rmef.org](mailto:bhammond@rmef.org)

Any party may designate a different address for itself by notice similarly given. Unless provided herein, any such notice, demand or document so given shall be effective upon delivery of the same to the proper address of the party or parties to whom the same is to be given.

9.8 Time of Essence. Time is of the essence in the performance of each and every term, condition, and covenant of this Agreement.

9.9 Counterparts. This Agreement may be executed in any number of counterparts which together shall constitute the contract of the parties.

9.10 Paragraph Headings. The paragraph headings herein contained are for purposes of identification only and shall not be considered in construing this Agreement.

9.11 Attorneys' Fees. The prevailing party in any legal proceeding brought to enforce rights hereunder shall recover from the other party its reasonable attorneys' fees and costs. As used herein in the term "prevailing party" means the party entitled to recover the costs in any suit, whether or not brought to judgment, and whether or not incurred before or after the filing of suit.

9.12 Waiver. Except as herein expressly provided, no waiver by a party of any breach of this Agreement or any warranty or representation under this Agreement by another party shall be deemed to be a waiver of any other breach of any kind or nature (whether preceding or succeeding and whether or not of the same or similar nature) and no acceptance of payment or performance by a party after any such breach by another party shall be deemed to be a waiver of any further breach of this Agreement or of any representation or warranty by such other party whether or not the first party knows of such a breach at the time it accepts such payment or performance. No failure on the part of a party to exercise any right it may have by the terms of this Agreement or by law upon the default of another party, and no delay in the exercise of any such right by the first party at any time when such other party may be in default, shall operate as a waiver of any default, or as a modification in any respect of the provision of this Agreement.

9.13. 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 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.

9.14 Exhibits. Any and all exhibits attached or to be attached hereto are hereby incorporated and made a party of this Agreement by reference.

9.15 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Utah.

9.16 No Recording. Neither this Agreement nor any memorandum, summary, or other document related thereto, shall be recorded in the real property records.

9.17 Further Instruments. Each party hereto shall from time to time execute and deliver such further documents or instruments as the other party, its counsel or the Title Company may reasonably request to effectuate the intent of this Agreement, including without limitation documents necessary for compliance with the laws, ordinances, rules and regulations of any applicable governmental authorities.

9.18 Approval. The terms and conditions of this agreement shall not become binding until it has received final approval by Buyer's Board of Directors and until Seller has received final approval by its Executive Management.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date and year first above written.

SELLER:

PACIFICORP, doing business as Rocky Mountain Power, successor in interest to Utah Power & Light Company

By: Cindy A. Crane

Its: President & CEO

Date Signed: 6/28/16

BUYER:

ROCKY MOUNTAIN ELK FOUNDATION, INC.  
a Montana Non-Profit Corporation

By: [Signature]

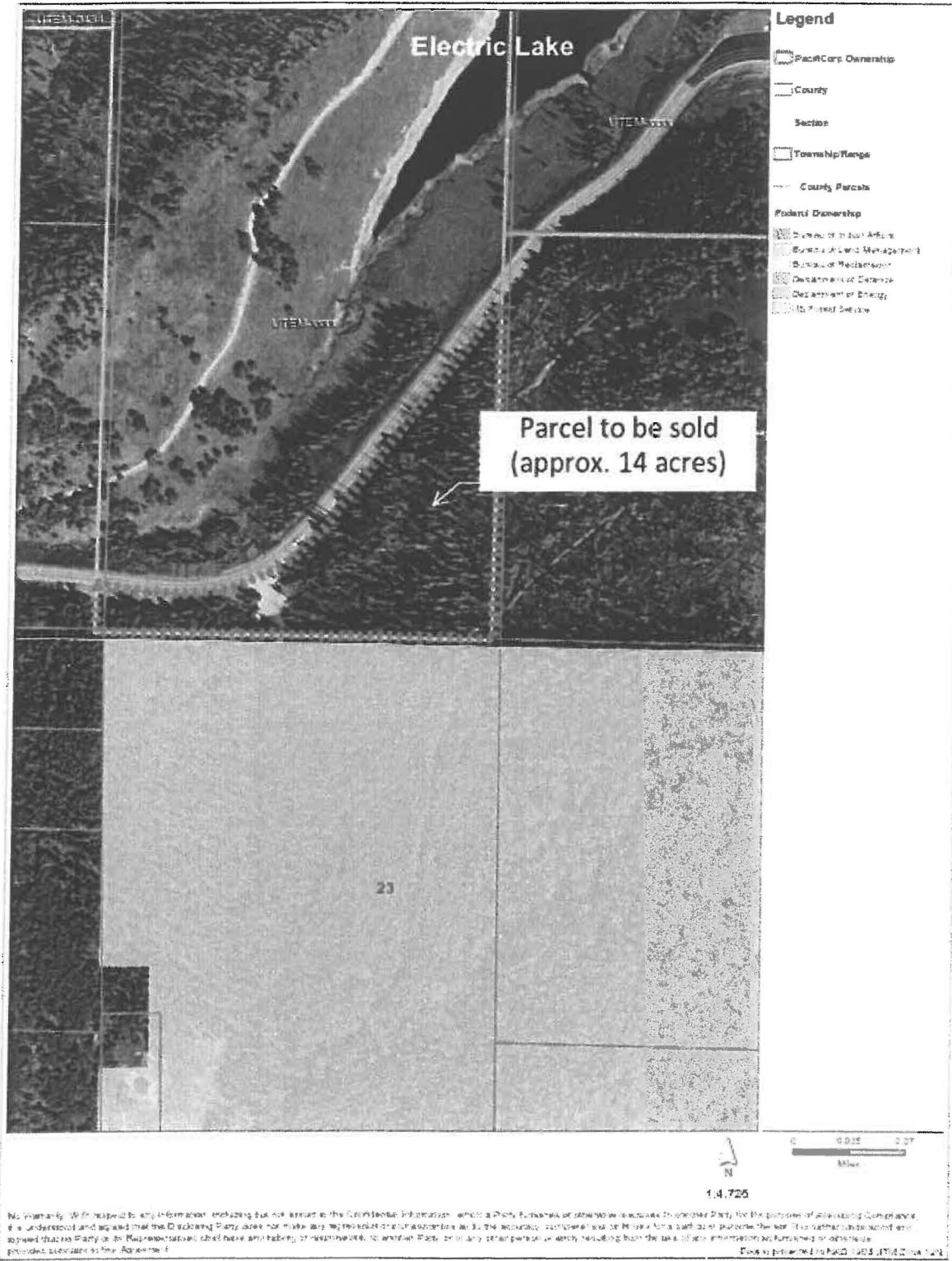
Its: COO

Date Signed: 6-22-2016

**EXHIBIT "A"**  
**(Description of the Property)**

Township 14 South, Range 6 East, Salt Lake Base and Meridian  
Section 14: All that portion of the SE1/4SW1/4 lying south and east of State Road 31.

**EXHIBIT "B"**  
**(Map of the Property)**





**ADDENDUM NO. 1**

THIS IS AN ADDENDUM to that certain Agreement for Sale and Purchase of Real Property (the "Agreement") dated June 28, 2016 between PacifiCorp, doing business as Rocky Mountain Power, successor in interest to Utah Power & Light Company ("Seller") and Rocky Mountain Elk Foundation, Inc. a Montana Non-Profit Corporation ("Buyer"), regarding the property located within the S½SE¼SW¼ of Section 14, Township 14 South, Range 6 East, S.L.B. & M.

The following terms are hereby incorporated as part of the Agreement:

Paragraph 6.1 Time and Place of Closing: The purchase and sale transaction contemplated by this Agreement shall be consummated through a closing conference (the "Closing") which shall be held at the Title Company on or before 'October 12, 2016', (the "Closing Date"), or at such earlier time and place as the parties may mutually agree in writing. Provided all conditions and prerequisites to the Closing set forth herein are fully met and satisfied, possession shall occur at closing.

All other terms and conditions as set forth in the Agreement shall remain in full force and effect.

This Agreement may be executed in any number of counterparts which together shall constitute the contract of the parties.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date and year first above written.

PACIFICORP, doing business as Rocky Mountain Power, successor in interest to Utah Power & Light Company

By: David Holt

Its: Manager, Prop. Mngl. East

Date Signed: 9/26/16

Rocky Mountain Elk Foundation, Inc.  
a Montana Non-Profit Corporation

By: [Signature]

Its: COO

Date Signed: 9-26-2016

**ATTACHMENT B**  
**SPECIAL WARRANTY DEED**

**After Recording Please Return to:**  
Rocky Mountain Elk Foundation  
Attention: Lands Department  
5705 Grant Creek Road  
Missoula, MT 59808  
Parcel No UTEM-0442  
Tax ID No. Portions of #L2-8-4

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### *Special Warranty Deed*

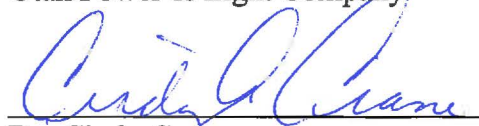
For good and valuable consideration, **Rocky Mountain Power**, an unincorporated division of PacifiCorp, Successor in Interest to Utah Power & Light Company, organized and existing under the laws of the State of Utah, with its principal office at 1407 West North Temple Street, Suite 110, Salt Lake City, County of Salt Lake, State of Utah, GRANTOR, hereby sells, conveys, assigns, transfers and warrants against all who claim by, through or under it to **Rocky Mountain Elk Foundation, Inc.**, a Montana non-profit corporation, whose address is 5705 Grant Creek Road, Missoula, County of Missoula, State of Montana, GRANTEE, and to the successors and assigns of the Grantee, in fee simple forever, all of the Grantors' right, title, and interest in the real property located in Emery County, State of Utah (referred to in this deed as the "Property"):

See Exhibit "A" attached hereto and by reference to made a part hereof

EXCEPTING AND RESERVING to the Grantor, its successors and assigns, all oil, gas and other minerals now owned by Grantor, including coal, but not including sand, gravel or rock, in and under the above-described land, or any part thereto, together with the rights of entry thereon to prospect or mine and remove the same.

WITNESS the hand of said Grantor as of the 27<sup>th</sup> day of September, 2016.

Rocky Mountain Power, an unincorporated  
division of PacifiCorp, Successor in Interest to  
Utah Power & Light Company

  
By: Cindy Crane  
Its: President

STATE OF UTAH            )  
  )ss.  
County of Salt Lake        )

On the 27 day of September, 2016, personally appeared before me Cindy Crane, who being by me duly sworn, did say that she is the President & CEO of Rocky Mountain Power, an unincorporated division of PacifiCorp, Successor in Interest of Utah Power & Light Company, and that the foregoing instrument was signed in behalf of said corporation and the said President & CEO acknowledged to me that said corporation executed the same.



Melinda La Sene  
NOTARY PUBLIC  
My Commission Expires:

## “EXHIBIT A”

The following describes all that parcel of land situate in the Southeast One-quarter (SE1/4) of the Southwest One-quarter (SW1/4) of Section 14, Township 14 South, Range 6 East, Salt Lake Meridian, County of Emery, State of Utah, and lying southerly of the south right-of-way line for State Route 31, described as follows:

BEGINNING at the One-quarter corner common to Sections 14 and 23, Township 14 South, Range 6 East, Salt Lake Meridian; said corner being a U.S.D.A. aluminum pipe monument; running thence along the common line for Sections 14 and 23, North 88°38'27" West, a distance of 1318.21 feet to the West One-sixteenth (W1/16) corner common to Sections 14 and 23; said corner being a U.S.D.A. Forest Service aluminum pipe monument;

Thence along the North-South center line of the Southwest One-quarter (SW1/4) of Section 14, Township 14 South, Range 6 East, Salt Lake Meridian, North 00°52'48" East, a distance of 73.35 feet to the point of intersection with the south right-of-way line for State Route 31; said corner being monumented with a U.S.D.A. Forest Service aluminum pipe monument;

Thence continuing along said south right-of-way line for State Route 31 the following five (5) courses:

- South 82°33'20" East, a distance of 64.41 feet;
- South 85°33'09" East, a distance of 149.71 feet;
- Northeasterly along the arc of a tangent curve to the left having an arc length of 604.72 feet and a radius of 641.21 feet, through a central angle of 54°00'27", the chord of which bears North 67°26'40" East, a distance of 582.58 feet;
- North 40°26'30" East, a distance of 149.71 feet;
- North 37°26'41" East, a distance of 798.17 feet to the point of intersection with the North-South center line for Section 14, Township 14 South, Range 6 East, Salt Lake Meridian; said corner being monumented with a U.S.D.A. Forest Service aluminum pipe monument;

Thence along the North-South center line of Section 14, Township 14 South, Range 6 East, Salt Lake Meridian, South 00°54'51" West, a distance of 1055.92 feet to the point of beginning.

**CONTAINING: 10.61 acres, more or less**

**ATTACHMENT C**  
**RIGHT OF WAY EASEMENT**

Return to:  
Rocky Mountain Power  
Lisa Louder/Erik Carlson  
1407 West North Temple Ste. 110  
Salt Lake City, UT 84116  
Project Name: UTEM-0442

## RIGHT OF WAY EASEMENT

For value received, **Rocky Mountain Elk Foundation, Inc.**, a Montana non-profit corporation, ("Grantor"), hereby grants to **Rocky Mountain Power**, an unincorporated division of PacifiCorp its successors and assigns, ("Grantee"), a perpetual, nonexclusive right-of-way easement for foot and ATV access for ingress and egress to adjacent lands, on, and over the surface of the real property of Grantor in Emery County, State of Utah more particularly described as follows and as more particularly described on **Exhibit "A"** and attached hereto and by this reference made a part hereof.

Together with the right of access to the right of way from adjacent lands of Grantor for all activities in connection with the purposes for which this easement has been granted; and together with the present and (without payment therefore) the future right to keep the right of way and adjacent lands clear of all brush, trees, timber, structures, buildings and other hazards which might endanger Grantee's facilities or impede Grantee's activities.

**Purpose, Location and Description of Easement.** This right of way easement is for the purpose of constructing, operating, maintaining, repairing, renewing and installing a radio repeater. This right of way easement is on and over a strip of land approximately 4 feet wide, running in a north-south direction from State Route 31, through a parking lot and then along an existing trail. The approximate location of the right of way easement is depicted in **Exhibit "B."**

**Construction and Maintenance.** Grantor shall not be liable for any of the expense of constructing or maintaining the right of way easement.

**Damage and Indemnification.** Grantee shall promptly repair any damage caused by Grantee to the Grantor's property, including any roads, fences or structures, and shall indemnify the Grantor against any loss or damage to persons or property caused by Grantee.

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 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.**

The rights and obligations of the parties hereto shall be binding upon and shall benefit their respective heirs, successors and assigns.





**Exhibit "A"**  
Legal Description

The following describes all that parcel of land situate in the Southeast One-quarter (SE1/4) of the Southwest One-quarter (SW1/4) of Section 14, Township 14 South, Range 6 East, Salt Lake Meridian, County of Emery, State of Utah, and lying southerly of the south right-of-way line for State Route 31, described as follows:

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**CONTAINING: 10.61 acres, more or less**

**Exhibit "B"**  
Approximate location of Right of Way Easement

