

TAX CERTIFICATE AND AGREEMENT

This Tax Certificate and Agreement is executed in connection with the Commodity Supply Contract (the "*Supply Contract*") between Southeast Energy Authority, a Cooperative District ("*SEA*") and Utah Associated Municipal Power Systems ("*UAMPS*").

WHEREAS, Payson City (the "*Participant*") is a member of UAMPS and has entered into the Payson Power Project Power Sales Contract dated as of June 1, 2002¹ (the "*Power Sales Contract*") with UAMPS;

WHEREAS, the Participant understands that UAMPS has entered into the Supply Contract to obtain a supply of natural gas for use as fuel in the operation of the Payson Power Project, and that UAMPS will sell a portion of the electricity generated with such natural gas to the Participant in accordance with its Entitlement Share under (and as such term is defined in) the Power Sales Contract;

WHEREAS, the Participant further understands that SEA will issue bonds to finance a prepayment for the natural gas that it sells to UAMPS under the Supply Contract (the "*Prepay Bonds*") with the intention that the interest on the Prepay Bonds will qualify for tax exemption under Section 103 of the Internal Revenue Code of 1986, as amended (the "*Code*"); and

WHEREAS, the Participant acknowledges that its use of the electricity it purchases from its Entitlement Share under the Power Sales Contract is subject to certain restrictions that are necessary to establish and maintain the tax-exempt status of interest on the Prepay Bonds;

ACCORDINGLY AND IN FURTHERANCE OF THE FOREGOING, THE PARTICIPANT HEREBY CERTIFIES AND AGREES AS FOLLOWS:

1. The Participant is a political subdivision of the State of Utah,² and owns and operates a municipal utility system that provides electricity service to retail customers located in an established service area (the "*System*").
2. The Participant will (a) use all of the electricity it acquires from its Entitlement Share under the Power Sales Contract in a Qualified Use (as defined below), (b) not take any action (or make any allocation) that is inconsistent with the Qualified Use of such electricity, (c) not take or omit to take any action which could adversely affect the tax-exempt or tax-advantaged status of interest on the Prepay Bonds or any refunding bonds issued by SEA, (d) take, and pay the costs of, such remedial actions as may be necessary to maintain the tax-exempt or tax-advantaged status of

¹ (a) "June 1, 2002" for Fairview, Monroe, Mt. Pleasant, Payson and Springville, (b) "June 1, 2002, as supplemented" for Ephraim, Hurricane, Hyrum, Kaysville, Lehi, Logan, Santa Clara, Spring City, SESD and Washington, and (c) "December 1, 2009" for TDPUD.

² Utah for all Participants, except California for TDPUD.

interest on the Prepay Bonds or any refunding bonds in the event of its failure to use such electricity in a Qualified Use, and (e) act in accordance with such reasonable written instructions as may be provided by SEA (through UAMPS) from time to time in order to maintain the tax exempt or tax-advantaged status of the Prepay Bonds.

3. “*Qualified Use*” means the sale of electricity to retail customers located within the “electricity service area” of a municipal utility pursuant to generally applicable and uniformly applied rate schedules or tariffs; *provided* that: (a) “Qualified Use” shall not include any sale of electricity that gives rise to “private business use” or a “private loan” within the meaning of Section 141 of the Code; and (b) “Qualified Use” shall include such additional uses of electricity as may be approved by SEA (through UAMPS) with a favorable opinion of bond counsel. For purposes of this definition: (i) “electricity service area” has the meaning assigned to such term in U.S. Treasury Regulation Section 1.148-1(e)(2)(iii); and (ii) a “municipal utility” is a state or local government unit that owns and operates an electric distribution utility.

4. In each of the five calendar years preceding 2024, the amount of electricity sold to retail customers in the Participant’s electricity service area has equaled or exceeded the amount of electricity attributable to its Entitlement Share under the Power Sales Contract (excluding the amount of electricity that the Participant was obligated to take under a long term agreement that was either (i) purchased pursuant to a long term prepaid agreement using the proceeds of tax-exempt or tax-advantaged obligations, or (ii) generated from gas that a person is obligated to take under a long term agreement that was purchased pursuant to a long term prepaid agreement using the proceeds of tax-exempt or tax-advantaged obligations), and it anticipates this to be the case in 2024.

5. References to the “Bonds” in Section 17(c) [Sale or Assignment of Electric System or Power Sales Contract] and Section 17(f) [Tax Status] of the Power Sales Contract shall be deemed to include the Prepay Bonds at all times while the Supply Contract is in effect.

6. The Participant expects to make the required payments under the Power Sales Contract solely from the current revenues of the System.

Dated: December 6, 2023.

Payson City

By: _____
William R. Wright, Mayor

Attest:

Kim E. Holindrake, City Recorder