

PERFORMANCE AGREEMENT

This Performance Agreement (this "Agreement") is entered into by and between Pflugerville Community Development Corporation (the "PCDC"), a Section 4B corporation incorporated under the Development Corporation Act of 1979 (the "Act"), and, Renewable Property Group, L.L.C., a Texas Corporation ("Renewable").

RECITALS

PCDC has determined that it is in the best interests of PCDC and the City of Pflugerville, a Texas Home Rule City in Travis County Texas (the "City"), to facilitate RENEWABLE in relocating its headquarters and operations to the City and generally described on Exhibit "A" attached hereto (the "RENEWABLE Facilities"). RENEWABLE has determined that it is in RENEWABLE'S best interests to move its corporate headquarters and engineering research facilities to the RENEWABLE Facilities in Pflugerville. PCDC has determined that the relocation of RENEWABLE'S Facilities within the City will provide significant economic benefits and will further economic development in the City. The economic benefits of the RENEWABLE Facilities to the City will include, without limitation, the proceeds received by the City from the ad valorem taxes levied upon the premises and equipment of the RENEWABLE Facilities, and the maintenance of permanent full-time jobs within the City at the RENEWABLE Facilities.

PCDC and RENEWABLE have agreed to enter into this Agreement in connection with RENEWABLE's move to the RENEWABLE Facilities to provide for certain incentives to RENEWABLE and to further define certain obligations of the parties to this Agreement with respect to RENEWABLE' move and such incentives. This Agreement is required pursuant to Section 40 of the Act.

AGREEMENT

I.

Performance Agreement

1. This Agreement serves as a performance agreement by the parties hereto.
2. RENEWABLE hereby agrees to: (i) relocate its corporate headquarters and research operation to the PCDC's Renewable Energy Park in the City as evidenced by the issuance of a certificate of occupancy by the City for RENEWABLE's Facilities by June 1, 2013. (ii) Maintain its headquarters and research operation in the City for at least 5 years. (iii) Employee at least 8 people in the City by the end of first year of operation with an average wage of at least \$50,000 with medical benefits and maintain those jobs in

the City for at least 5 years. (iv) Purchase 5.496 acres in Pflugerville Renewable Energy Park within 90 days of the execution of this agreement. (v) Build at least 6,000 square feet of office space in the Pflugerville Renewable Energy Park by June 1, 2013. (vi) Ensure that all office buildings constructed on the 5.496 acres have roof that are oriented towards collecting maximum sunlight and are solar panel ready. (vii) In the event Renewable ceases to do business this agreement shall be considered to be satisfied provided that Renewable has satisfied Article I. Section 2 (v) of this agreement.

II. **Benefit**

1. In consideration for RENEWABLE's agreement to satisfy the above mentioned performance agreement, PCDC hereby agrees to sell RENEWABLE 5.496 acres in the Pflugerville Renewable Energy Park for \$2.50 per foot reduced from \$5.00 per foot.
2. PCDC will lease 2,000 square feet of office space from Renewable at a rate of \$1.75 per foot for 5 years.
3. PCDC shall bring all utilities including water, sewer, electric and a public roadway to RENEWABLE's lot line in the Pflugerville Renewable Energy Park by June 1, 2012.
4. PCDC shall be allowed to review the number of RENEWABLE's full time employees quarterly in accordance with this agreement.
5. PCDC shall construct an electric car recharging station in the Pflugerville Renewable Energy Park that is assessable to the public.
6. PCDC shall pay all water and waste water impact fees when they become due to the City of Pflugerville for the first 6,000 square feet constructed by RENEWABLE.

III. **PENALTY**

In the event that (i) RENEWABLE fails to fulfill the Facilities or Job Creation Requirements, or (ii) RENEWABLE otherwise fails to comply with its obligations pursuant to this Agreement, and such failure is not cured within 30 days of written notice thereof from PCDC to RENEWABLE, then in any such event, RENEWABLE will immediately pay to PCDC the amount of the Benefit. (iii) In the event PCDC fails to bring all utilities to RENEWABLE's lot line by June 1, 2012 PCDC shall pay RENEWABLE liquidated damages in the amount of \$250.00 per day. (iv) PCDC understands and agrees that the number of employees committed is subject to change based on the whether the Renewable Tax Credit is extended and economic conditions support that level of staffing.

IV.
MICELLANEOUS

Representations and Warranties. This Agreement is being entered into pursuant to Section 40 of the Act. PCDC hereby represents and warrants to RENEWABLE that this Agreement is within its authority and that PCDC has been duly authorized and empowered to enter into this Agreement. RENEWABLE hereby represents and warrants to PCDC that this Agreement is within its authority and that RENEWABLE has been duly authorized and empowered to enter into this Agreement. RENEWABLE acknowledges that the agreement may be terminated and payment may be withheld if this certification is inaccurate.

Mutual Assistance. PCDC and RENEWABLE will each do all things reasonably necessary and appropriate to carry out the terms and provisions of this Agreement.

Successor and Assigns. This Agreement shall be binding upon and inure to the benefit of the respective legal representatives, successors, assigns, heirs, and devisees of the parties. Neither party hereto may assign this Agreement without the prior written consent of the other party hereto.

Representations and Warranties by RENEWABLE. If RENEWABLE is a corporation or a limited liability company, RENEWABLE warrants, represents, covenants, and agrees that it is duly organized, validly existing and in good standing under the laws of the state of its incorporation or organization and is duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary power and has received all necessary approvals to execute and deliver the Agreement, and the individual executing the Agreement on behalf of RENEWABLE has been duly authorized to act for and bind RENEWABLE. RENEWABLE acknowledges that the agreement may be terminated and payment may be withheld if this certification is inaccurate.

Franchise Tax Certification. A corporate or limited liability company RENEWABLE certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the *Texas Tax Code*, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable. RENEWABLE acknowledges that the agreement may be terminated and payment may be withheld if this certification is inaccurate.

Payment of Debt or Delinquency to the Local or State Government. RENEWABLE agrees that any payments owing to RENEWABLE under an agreement with the City of Pflugerville may be applied directly toward any debt or delinquency that RENEWABLE owes the State of Texas, Travis County,

Williamson County the City of Pflugerville or any other political subdivision of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

Child Support Certification. RENEWABLE hereby certifies that none of the officers of the corporation are delinquent in their court ordered child support obligations and shall acknowledge that any agreement with the city may be terminated and payment may be withheld if this certification is inaccurate.

Severability. If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this Agreement shall be given the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall be deemed not to be a waiver of such party's right to enforce against the other party the same or any other such term or provision.

Governing Law. This Agreement shall be governed, construed, applied, and enforced in accordance with the laws of the State of Texas, and shall be performable with venue in Travis County, Texas.

Third Party Beneficiaries. This Agreement is not intended to give or confer any benefits, rights, privileges, claims, actions or remedies to any person or entity as a third party beneficiary.

Amendments. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

Time. Time is of the essence in the performance of this Agreement.

Attorneys Fees. Should any party employ attorneys to enforce any of the provisions hereof, the party losing in any final judgment agrees to pay the prevailing party all reasonable costs, charges and expenses, including reasonable attorneys' fees, expended or incurred in connection therewith.

Notices and Payments. All notices hereunder must be in writing and shall be deemed delivered on the day personally delivered on the third day from the day sent by registered mail or certified mail, return receipt requested with the U.S. Postal Service, or on the day after the day sent by national overnight courier, to the parties at the following addresses, or at such other addresses as shall be specified by notice.

If notice to the PCDC:
Pflugerville Community Development Corporation
Attention: Director
203 West Main Street, Suite C
P.O. BOX 1160
Pflugerville, Texas 78691

With copy to:
Floyd Akers
City Attorney
P. O. Box 679
Pflugerville, Texas 78691-0679

If notice to RENEWABLE:

with copy to:

All payments to the PCDC required under this agreement shall be made to:

Pflugerville Community Development Corporation
Attention: Director
203 West Main Street, Suite C
P.O. BOX 1160
Pflugerville, Texas 78691

Construction. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all such counterparts shall constitute one Agreement.

Performance. Performance by PCDC under the Agreement is dependent upon the approval of the City Council of the City of Pflugerville (Council). If the Council fails to approve this agreement, then PCDC shall issue written notice to RENEWABLE and PCDC may terminate the Agreement without further duty or obligation hereunder. RENEWABLE acknowledges that the approval of this document is beyond the control of PCDC.

Undocumented Workers. Pursuant to Chapter 2264 of the Texas Government Code, RENEWABLE certifies that they will not knowingly employ any undocumented workers. RENEWABLE further agrees that if the business, or a branch, division, or department of the business, is convicted of a violation under

8 U.S.C. Section 1324a(f), RENEWABLE shall repay the amount of the public subsidy with interest, at the rate of ten percent (10%) per annum from the date this agreement is entered into, not later than the 120th day after the date the public agency, state or local taxing jurisdiction, or economic development corporation notifies the business of the violation.

DATED this _____ day of _____, 2010.

National Renewable Company, Inc.
A Texas Corporation

By: _____
Name: _____
Title: _____

PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION
A Texas Economic Development Corporation

By: _____
Name: Randy Duncan
Title: President