



Wattsmart New Homes Builder Participation Application and Agreement

Program Application

Builder Information

Company Name: _____

DBA: _____

Contractor License #: _____

Business Address: _____

City: _____ State: _____ ZIP: _____

Mailing Address: _____

City: _____ State: _____ ZIP: _____

Phone #: _____ Fax: _____

Website: _____

Payee Address (if different than mailing address): _____

Payee City: _____ Payee State: _____ Payee ZIP: _____

Contact Information

Primary Contact: _____

Phone #: _____ Email: _____

I wish to receive program correspondence via email. The program does not share your email address or contact information.

Builder must indicate that they would like to be contacted via email and receive program correspondence electronically.

Construction Contact: _____

Phone #: _____ Email: _____

HERS Rater Information

Company Name: _____

Primary Contact: _____

Phone #: _____ Email: _____

Program Information

Program Name: Rocky Mountain Power Wattsmart New Homes Program ("Program")

Program Rules: <https://www.rockymountainpower.net/savings-energy-choices/home/wattsmart-new-homes/builders.html>

Incentive Processing Information

Verify all required documentation is provided in order to reduce any delays.

- Proof of valid state contractor license.
- Owner/Builder may participate in HERS measures without a contractor license provided they work with a program-approved HERS Rater.
- Completed W-9, <https://www.irs.gov/pub/irs-pdf/fw9.pdf>

Program Participation Agreement

Rocky Mountain Power through the Wattsmart New Homes Programs provides eligible customers with technical services and financial incentives to facilitate the identification, installation, and verification of qualified energy efficient measures and new homes that are more efficient than the energy code requires. Rocky Mountain Power has contracted with Resource Innovations, who is the current third-party implementer of the Program. This Builder Participation Agreement and Application (Agreement) incorporates by reference the Program Terms and Conditions provided below. Builder must agree and adhere to these terms and conditions in order to participate in the Program.

Acceptance of Terms

I have read and understood the Agreement and agree to comply with all requirements herein, including all supporting policies and Program Rules referenced by the Program and this Agreement. I acknowledge that I have had the opportunity to consult with independent legal counsel. I agree that the Program terms and this Agreement may be modified by Rocky Mountain Power and Resource Innovations at any time during the Term of this Agreement. I certify, under penalty of law, that the information I have provided is true and correct. I understand by signing this Agreement I consent to additional inquiry to verify or confirm the information I have provided. I would like to participate in the Program and commit to the requirements herein, including the Terms and Conditions provided below. I certify that I am authorized to sign this Agreement.

Authorized Signature: _____

Name/Title: _____

Date: _____

Printed Name: _____

Please sign and return this Agreement via email to: wattsmartnewhomes@rockymountainpower.net

Terms and Conditions

These Program Terms and Conditions set forth the terms governing Builder's participation in the Program. Capitalized Terms not defined below are as defined in the Builder Participation Application Section.

1. **Acceptance.** Builder must return a signed Agreement prior to participation in the Program. Any acceptance of this Agreement is limited to acceptance of the express terms contain herein. Any proposal for additional or different terms or any attempt by Builder to vary in any degree any of the terms and conditions of this offer is hereby rejected, and by signing this Agreement, Builder agrees to the terms set forth herein.
2. **Term of Agreement.** This Agreement shall be effective upon the date of execution until terminated in accordance with the terms set forth herein or upon termination of the Program.
3. **No endorsement.** This Agreement is not an endorsement by the Program of Builder's services, products, reputation, or reliability.
4. **Termination for convenience.** Rocky Mountain Power, the Program, and the third-party implementer reserve the right to terminate the Agreement or any part hereof for their sole convenience. In the event of such termination, Builder shall immediately cease participation in the Program, including any applicable use of the

Rocky Mountain Power logo, the Wattsmart Program logo or other advertising tools, and incentive forms. Builder shall not be paid for incentives dated and submitted after receipt of notice of termination nor for any costs incurred that the Builder could reasonably have avoided.

5. **Termination for cause.** The Program reserves the right to terminate this Agreement for cause in the event of any default by Builder, or if Builder fails to comply with any of the terms and conditions of this Agreement. Causes allowing Rocky Mountain Power, the Program, and the third-party implementer to terminate this Agreement include, but are not limited to, failure to submit properly completed incentive forms, failure to properly process incentives, loss of certifications necessary for participation in the Program, insolvency, and failure to provide the Program, upon request, with reasonable assurance of future performance. In the event of termination for cause, Builder shall be liable to the Program for any and all damages sustained by reason of the default, which gave rise to termination.
6. **Proprietary information.** The Program may provide logo artwork files to Builder for the use specified in this Agreement. Only artwork files provided by the Program may be used. Images captured from websites, publications and other sources may not be used. Builder shall consider all information furnished by the Program to be confidential and shall not disclose any such information to any other person or use such information itself for any purpose other than performing the terms and conditions of this Agreement, unless Builder obtains prior written permission from Rocky Mountain Power, the Program, or the third-party implementer to do so.
7. **Non-waiver.** The failure of the Rocky Mountain Power, the Program, and any third-party implementer to insist on or enforce, in any instance, strict performance, by Builder on any of the terms of this Agreement, or to exercise any rights herein conferred, shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon any such terms or rights on any future occasion.
8. **Independent Contractor.** In rendering services hereunder, Builder shall properly represent the relationship of Builder to Rocky Mountain Power, the Program and any third-party implementer, this relationship being that Builder is an independent contractor participating in the Program. Builder shall not represent themselves as employees or agent working for, approved by, or certified by Rocky Mountain Power the Program, or any third-party implementer. As an independent contractor, Builder shall have no authority, express or implied, to commit or obligate Rocky Mountain Power, the Program or any third-party implementer in any manner whatsoever. Nothing contained herein shall be construed or applied to create a partnership. Builder shall be responsible for the payment of all federal, state, or local taxes payable with respect to all amounts paid to Builder under this Agreement. Builder shall maintain any relevant licenses required by federal, state, county or municipal governments or any other agencies with jurisdiction over work performed in the Program.
9. **Insurance.** Without limiting any of the other obligations or liabilities of Builder under this Agreement, Builder will maintain, and will require all of its subcontractors at any tier to maintain, throughout the entire term of this Agreement, without interruption, insurance of the types set forth below and, in the amount, commensurate with reasonable business practices. Payment of all insurance costs, deductible amounts and/or self-insured retentions shall be Builder's sole responsibility. Builder shall maintain general liability insurance and workers' compensation coverage as required by state and/or municipal law and produce evidence of current coverage upon request by Rocky Mountain Power, the Program or any third-party implementer.
10. **Program participation.** Builder acknowledges that participation in the Program is a privilege, and Rocky Mountain Power and the third-party implementer, may suspend or terminate Builder's participation in the Program for any reason, including failure to maintain the Program standards. In all cases involving a Builder's status, or denial of Program incentives, the third-party implementer's written decision is final. Rocky Mountain Power and the third-party implementer reserve the right to make changes to the Program upon notice to Builder. Such notification shall be by email and/or U.S. Postal Service. It is expressly understood that the Program and third-party implementer will not initiate any processing of any work until Builder supplies a completed application and any other required documents. Builder acknowledges that failure to follow the Program requirements and procedures, including provision of required documents, will result in a loss of applicable incentives and possible disciplinary action.

11. Indemnity; limitation on damages. Builder shall defend, protect, indemnify, and hold harmless Rocky Mountain Power and the third-party implementer, their respective officers, directors, agents, and employees, and each of their parent and affiliates, and each of their respective officers, directors, agents, and employees (collectively, the Indemnified Parties) from and against any all claims, losses, expenses, attorney's fees, damages, demands, judgments, causes of action, suits, and liability in tort, contract, or any other basis and of every kind and character whatsoever (Claims) arising out of Builder's, or its agents' or subcontractors', acts or omissions, including, but not limited to, any violation of labor or employment laws, incident to or related in any way to, directly or indirectly, the services provided in connection with the Program, this Agreement and/or the Program. Builder acknowledges and agrees that with respect to any Claims brought against the Indemnified Parties, Builder will be required to waive as to the Indemnified Parties, any defense it may have by virtue of the Workers' Compensation Laws or any state, to the extent allowed by law. THIRD-PARTY IMPLEMENTER AND ROCKY MOUNTAIN POWER SHALL NOT BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, LOSS OR ANTICIPATED REVENUE, PROFITS OR GOODWILL, WHETHER ARISING IN NEGLIGENCE, BREACH OF CONTRACT, OR UNDER STATUTE OR RULE. Nothing in this Agreement shall be construed to create any duty to, any standard of care with reference to, or any liability to any other third party (other than the third-party implementer) on behalf of the third-party implementer or Rocky Mountain Power. Builder is solely responsible for any damage incurred by Builder or third parties as a result of Builder's services under the Program. Neither the third-party implementer nor Rocky Mountain Power is responsible for any of the Builder's own customer complaints or damages. The parties agree that the third-party implementer is a third-party beneficiary of this Paragraph.

12. Disclaimer of Warranties. Neither Rocky Mountain Power nor the third-party implementer guarantees that installation and operation of the energy efficiency services, or measures selected for the Program will result in reduced energy usage or cost savings. ROCKY MOUNTAIN AND THE THIRD-PARTY IMPLEMENTER MAKE NO REPRESENTATIONS OR WARRANTIES, AND ASSUME NO LIABILITY WITH RESPECT TO QUALITY, SAFETY, PERFORMANCE, EFFECTIVENESS, POTENTIAL ENERGY SAVINGS, OPERATIONAL CAPABILITY, RELIABILITY OR AN OTHER ASPECT OF ANY DESIGN, SYSTEM, OR EQUIPMENT INSTALLED RELATED TO THE PROGRAM. TO THE MAXIMUM EXTENT PERMITTED BY LAW, ROCKY MOUNTAIN POWER AND THE THIRD-PARTY IMPLEMENTER EXPRESSLY DISCLAIM ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WHETHER STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OR MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSES. ROCKY MOUNTAIN POWER AND BUILDER AGREE THAT THE THIRD-PARTY IMPLEMENTER IS A BENEFICIARY OF THIS PROVISION.

Builder Further Agrees to:

1. If Builder chooses to allow a third party (other than the third-party implementer) to submit paperwork on their behalf to the Program, a Rocky Mountain Power Third-Party Application Submittal Authorization Form is required. Required documentation for the Program is available on the Rocky Mountain Power Wattsmart New Homes website: www.rockymountainpower.net/newhomes.
2. Construct and submit homes to the Program for incentives that comply with state building code, or the authority having jurisdiction and follow all Program requirements per Rocky Mountain Power, and when applicable construct homes to current version of ENERGY STAR New Homes guidelines.
3. Maintain relevant licenses required by federal, state, county, municipal governments, or any other agencies with jurisdiction.
4. Respond to and fulfill all data and information requests from the Program in a reasonable and timely manner. Failure to provide the third-party implementer or Rocky Mountain Power with all required forms as well as supporting documentation such as receipts, building permits and Certificates of Occupancy may result in delayed or rejected incentive requests.
5. Work only with HERS Raters in good standing with RESNET and the Program, and who have completed and

- submitted all required forms to the Program, when submitting homes to the Program for incentives.
6. Keep current W-9 information on file for the Program.
 7. Provide the third-party implementer a good faith forecast of the number of homes in Rocky Mountain Power service territory that Builder is reasonably likely to construct and submit for incentives, as requested.
 8. Comply with Program on-site verification requirements and coordinate with the third-party implementer, Rocky Mountain Power and Program staff and representatives on inspections. Ensure third-party implementer, Rocky Mountain Power, Program staff and representatives have access to each home, prior to occupancy, to verify installation of measures. For the purposes of the Quality Assurance process, documentation requested from the Builder may include, but is not limited to:
 - a. Copy of the house plans for each home submitted to the Program for incentives.
 - b. Copy of the computer-generated energy modeling file (i.e., REM/Rate file or Ekotrope file) for each home submitted to the Program for incentives.
 9. Not refer to any home as ENERGY STAR or Rocky Mountain Power Wattsmart New Homes qualified unless those dwellings are certified as such by an accredited HERS rater or as approved by Wattsmart New Homes staff. References include but are not limited to advertising copy, other promotional material, or verbal representation.
 10. Make good faith efforts to promote the benefits, features, and label of the Program, and if applicable, ENERGY STAR for New Homes messages into marketing, sales materials, and tactics.
 11. Not knowingly misrepresent any information concerning the Program or Builder's role in the program.
 12. Work with third-party implementer, Rocky Mountain Power, and Program management team to resolve any Program questions, conflicts, and/or issues that may arise in a timely manner.

Rocky Mountain Power Agrees to:

1. Provide an incentive for eligible homes and measures that qualify for the Program, as directed by the tariff. Once the application has been accepted, incentive funds will be allocated and paid, provided the application and measures meet all of the requirements, which includes submitting all required forms and information. Incentives may be limited and will be awarded to Builders that submit all required application materials. Incentive payments shall only be paid to an entity with a completed, signed Builder Application and Agreement on file.
2. Provide technical and sales support to participating Builders to cost-effectively construct and sell qualified homes.

Additional Terms:

1. This Agreement shall be governed by and construed under the laws of the state in which work is performed without regard to conflict of law rules.
2. This Agreement supersedes all previous signed agreements regarding the Program. This Agreement sets forth the entire agreement of the Builder regarding the Program. The terms herein may not be altered, changed, abridged or amended other than in writing signed by the Builder and Rocky Mountain Power.
3. If this Agreement is terminated for any reason, Rocky Mountain Power shall not be liable to the Builder for damages or compensation of any kind.
4. Rocky Mountain Power reserves the right to deny participation in the Program.
5. To the fullest extent permitted by law, Builder 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. Builder 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.