

**HASTINGS CITY COUNCIL
SPECIAL MEETING AGENDA**

**Second Floor Conference Room – City Hall
220 North Hastings Avenue
May 16, 2016
5:30 PM**

ROLL CALL:

PLEDGE OF ALLEGIANCE:

MOTION TO ADOPT CURRENT AGENDA for May 16, 2016 Special Meeting.

PUBLIC NOTICE - Official Notice of the Special Meeting was published in the Hastings Tribune on Saturday, May 14, 2016. Pursuant to the Nebraska Revised Statute Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material which will be discussed at today's meeting is located at the back of the Council Chambers. Also, a current copy of the Nebraska Open Meetings Act is posted on the south wall of the Council Chambers which is accessible to members of the public.

AGENDA ITEMS

1. Approval of the Certificate of Participant for Public Power Generation Agency (PPGA) bond refinancing to save more than \$26 million in interest charges.

ADJOURN:

The Mayor and City Council reserve the right to enter into an executive session at any time during the meeting, in accordance with the Nebraska Open Meetings Act, even though the closed session may not be indicated on the agenda.

It is the intention of the Mayor and City Council to take up the items on the agenda in sequential order. However, the Mayor and City Council reserve the right to take up matters in a different order to accommodate the schedules of the city council members, person having items on the agenda, and the public.

Department: Utilities
Staff Contact: Marvin Schultes, Utilities Manager
Council Meeting Date: 05/16/2016

AGENDA ITEM SUMMARY SHEET

Description of Item:

Certificate of Participant for PPGA Bond Refinancing to save more than \$26 million in interest charges

Names of People/Business affected by this action:

Citizens of Hastings
All customers of PPGA Participants in Nebraska, Iowa, South Dakota, and Minnesota

Why Council action is required:

Type of action requested:

Motion

Suggested motion:

Deadlines associated with action:

Bond closing is scheduled for May 25th and this is needed by May 19th to meet the bond closing. More than \$26 million of savings is in jeopardy if signed copies are not received.

Department head comments:

These documents are the same as the documents approved and signed last year for the refinancing of the 2015A Series of PPGA Debt and similar to all other PPGA participants.

City Administrator comments:

CERTIFICATE OF PARTICIPANT

The undersigned hereby certifies that he is the Chairman of the Board of Public Works of the City of Hastings, Nebraska, on behalf of Hastings Utilities (the "*Participant*"), a member of Public Power Generation Agency ("*PPGA*"), and that as such he is authorized to execute this Certificate on behalf of the Participant, and hereby further certifies as follows:

1. This Certificate has been executed in connection with the Public Power Generation Agency Interlocal Agreement, dated as of September 1, 2005 (the "*Interlocal Agreement*"), by and among the Participant and four other public agencies; and the Amended and Restated Participation Agreement, dated as of October 5, 2006 (the "*Participation Agreement*"), between the Participant and PPGA; and the proposed issuance by PPGA of its Whelan Energy Center Unit 2 Revenue Refunding Bonds, 2016 Series A.
2. The Participant is governed by a Board of Public Works of the City of Hastings, Nebraska (the "*Governing Body*").
3. The Interlocal Agreement and the Participation Agreement have each been duly authorized, executed and delivered by the Participant and constitute legal, valid and binding agreements of the Participant, and have not been amended, revised or supplemented.
4. The resolutions adopted at a meeting of the Governing Body held on August 5, 2005 authorizing the execution and delivery of the Interlocal Agreement and related matters and the resolution adopted at a meeting of the Governing Body held on October 13, 2006 authorizing the execution and delivery of the Participation Agreement and related matters have each been duly adopted, and are in full force and effect and have not been amended, modified, repealed or supplemented.
5. No referendum petition was filed with the Participant or any of its officers seeking to refer such resolution or ordinance to the electors of the Participant in accordance with the provisions of state law; and (b) no litigation has been instituted, is pending or has been threatened to require a referendum election thereon.
6. The Participant now owns and operates a local electric utility system (the "*System*") and furnishes electric energy to all persons desiring such service within its service area. The electric energy to be provided by its Entitlement Share in the Project (each as defined in the Participation Agreement) will be used by the Participant to provide electric service within its service area.
7. The payments to be made by the Participant to PPGA under the Participation Agreement will constitute ordinary and necessary expenses payable solely from the revenues and other available funds of the System.

8. There is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or administrative body pending or, to the best of our knowledge threatened, against the Participant which (a) challenges, contests or questions the due and regular adoption of any resolution referred to in paragraph 4 above or the validity thereof, or affects or seeks to prohibit, restrain or enjoin the Participant from complying with the obligations contained in the Participation Agreement or the Interlocal Agreement, including the payment obligations to PPGA contained in the Participation Agreement, (b) in any way affects or questions the validity or enforceability of the Interlocal Agreement or the Participation Agreement, nor, to the best of our knowledge, is there any basis therefor, (c) challenges or affects the corporate existence of the Participant or the titles of its officers to their respective offices, (d) seeks to prohibit, restrain or enjoin the collection of revenues from the System to be used to make payments to PPGA under the Participation Agreement, and (e) involves any of the property or assets of the Participant which involves the possibility of any judgment or liability, not fully covered by insurance, which may result in any material adverse change in the business, properties, assets or in the condition, financial or otherwise, of the System.

9. The Participant requested PPGA to acquire and construct the "Project", as defined in the Participation Agreement (consisting primarily of Whelan Energy Center Unit 2), on its behalf in order to provide electric energy needed by the Participant to serve its customers, and the Participant continues to expect the Project to be needed for such purpose.

10. Marvin H. Schultes has been duly appointed by the Governing Body to serve as a member, and Don Cox as alternate member, of the Board of Directors of PPGA on and from August 12, 2005.

11. The information with respect to the Participant and the System contained in the Official Statement of PPGA, dated April 28, 2016, was provided by the Participant, does not contain any untrue statement of a material fact and does not omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

Dated: May 25, 2016

HASTINGS UTILITIES

By _____

D. Charles Shoemaker, Chairman
Board of Public Works,
City of Hastings, Nebraska