

**HASTINGS UTILITY BOARD
AGENDA**

**Council Chambers – City Hall
220 North Hastings Avenue
September 14, 2017
9:00 AM**

ROLL CALL:

PLEDGE OF ALLEGIANCE:

MOTION TO ADOPT CURRENT AGENDA FOR SEPTEMBER 14, 2017 REGULAR MEETING.

PUBLIC NOTICE - Official Notice of the Regular Meeting was published in the Hastings Tribune on Tuesday, September 14, 2017. Pursuant to 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.

MANAGER'S COMMUNICATIONS:

BOARD CHAIRMAN'S COMMUNICATIONS:

BOARD MEMBERS' COMMUNICATIONS:

CITIZEN COMMUNICATIONS:

CONSENT AGENDA:

1. All Consent Items.

(a) Approval of the minutes of the Hastings Utility Board Meeting of August 10, 2017

REGULAR AGENDA:

1. Unfinished Business of Preceding Meeting.
2. General Business.
 - (a) Recommendation for Approval of Transmission Operating Agreement with Omaha Public Power District
3. Possible Closed Session (if necessary or requested).

ADJOURN:

The Hastings Utility Board reserves 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 Hastings Utility Board to take up the items on the agenda in sequential order. However, the Hastings Utilities Board reserves the right to take up matters in a different order to accommodate the schedule of the Utility Board Members, persons having items on the agenda, and the public.

MINUTES OF THE MEETING OF THE HASTINGS UTILITIY BOARD

A meeting of the Hastings Utility Board was held at the Hastings Utilities Board Room on Thursday, August 10, 2017, at 9:00 a.m. This meeting was preceded by notice duly published in the Hastings Tribune on Monday, August 7, 2017 and by notices duly posted in the lobby of Hastings Utilities, 1228 North Denver Avenue, and the City Hall, 220 N. Hastings Avenue, and was therefore open to the public.

Present: Hunt, Schreiner, Seberg, Hartmann, Hitesman

Also Present: Meyer, Cogley, Vrooman, Leonhardt, Hartman, Schawang, Cox, Barfknecht, Ptak, Odom, Eley, Mayor Stutte, Hernandez, Davis, Strom, Sekora, Patterson, Threewitt, Thompson, Rod Willmes, Maggie Vaughan (HEDC), Tom Hastings and Michelle Lewis (Hastings Area Chamber of Commerce) and Tony Hermann (Hastings Tribune)

Chairman Schreiner opened the meeting and stated that the Hastings Utility Board is subject to the Open Meetings Laws and acknowledged that the Open Meetings Law poster has been posted in the room. He also declared a quorum of members present.

The Pledge of Allegiance was recited.

There were no Public Comments.

Chairman Schreiner reminded the Board that he will be out of the Country during the month of September. Mr. Hitesman will be Acting Board Chairman in his absence.

Moved by Hunt, seconded by Hitesman, to approve the Minutes of the Meetings of July 13, August 2 and August 3, 2017. Roll Call: Ayes; Hunt, Hitesman, Schreiner, Hartmann, Seberg . Nays; None. Motion carried.

Maggie Vaughan provided a report on the Hastings Economic Development Corporation (HEDC).

Mayor Stutte, as well as Tom Hastings and Michelle Lewis, gave a presentation on the Hastings Area Chamber of Commerce.

Al Meyer, Interim Manager, presented the Hastings Utilities Fiscal Year 2017-18 Budget.

There was discussion amongst the Utility Board and City members regarding the water budget.

Moved by Hunt to disapprove Water Rate Ordinance No. 4515. Motion died due to lack of a second.

Moved by Hitesman, seconded by Hartmann to recommend approval of Water Rate Ordinance No. 4515, with a 5% increase, instead of the proposed 10% increase, to the Hastings City Council. Discussion ensued and no further action was taken on this motion.

Moved by Hartmann, seconded by Seberg, to recommend approval of Water Rate Ordinance No. 4515 with a 10% increase to the Hastings City Council. Roll Call: Ayes; Hartmann, Seberg, Schreiner, Hitesman. Nays; Hunt. Motion carried.

Moved by Hitesman, seconded by Hartmann, to recommend approval of Sewer Rate Ordinance No. 4516 with an 8% increase to the Hastings City Council. Roll Call: Ayes; Hitesman, Hartmann, Schreiner, Seberg. Nays; Hunt. Motion carried.

Moved by Hunt, seconded by Seberg, to recommend approval of Gas Rate Ordinance No. 4517 to the City Council. Roll Call: Ayes; Hunt, Seberg, Hartmann, Schreiner, Hitesman. Nays; None. Motion carried.

Moved by Hunt, seconded by Hartmann, to recommend approval of Resolution No. 2017-24 for HEDC Funding to the Hastings City Council. Roll Call: Ayes; Hunt, Hartmann, Hitesman, Schreiner, Seberg. Nays; None. Motion carried.

Moved by Hitesmann, seconded by Hunt, to recommend approval of Resolution No. 2017-25 for Hastings Area Chamber of Commerce Funding to the Hastings City Council. Roll Call: Ayes; Hitesman, Hunt, Hartmann, Seberg, Schreiner. Nays; None. Motion carried.

Moved by Seberg, seconded by Hartmann, to recommend approval of Resolution 2017-01 approving the Hastings Utilities Fiscal Year 2017-18 Budget. Roll Call: Ayes; Seberg, Hartmann, Hitesman, Schreiner. Nays; Hunt. Motion carried.

Moved by Hunt, seconded by Hitesman, to recommend approval of Residential and Commercial Development Incentive Program, including the revision recommended by staff for the overhead power lines. Roll Call: Ayes; Hunt, Hitesman, Schreiner, Hartmann, Seberg. Nays; None. Motion carried.

Brian Strom presented the Customer Connect Web portal.

Board Member Comments: There was a discussion regarding forming a Committee to discuss the budget. The item, 'Budget Committee' will be added to the upcoming meeting.

Moved by Hunt, seconded by Hitesman, that this Board go into Closed Session, which Closed Session is clearly necessary for the protection of the public interest and that said Closed Session will consist of a strategy session relative to negotiations. Roll Call: Ayes; Hunt, Hitesman, Seberg, Hartmann, Schreiner. Nays; None. Motion carried.

The meeting closed to the public at 11:30 a.m. The executive session consisted of Board Members, Al Meyer, Council Liaisons, Dave Ptak, Don Cox, Joe Patterson and Mayor Stutte.

Moved by Hitesman, seconded by Hunt, that the meeting be reopened to the public at 11:50 a.m., and that no decisions were made nor official actions taken during said Closed Session. Roll Call: Ayes; Hitesman, Hunt, Hartmann, Schreiner, Seberg. Nays; None. Motion carried.

The meeting adjourned at 11:50 a.m.

Secretary

Department: Utilities

Staff Contact:

Utility Board Meeting Date: 09/14/2017

AGENDA ITEM SUMMARY SHEET

Description of Item:

Names of People/Business affected by this action:

Electric Ratepayers

Why Council action is required:

City Council approves agreements

Type of action requested:

Suggested motion:

Deadlines associated with action:

Council approval September 25, 2017

Department head comments:

Recommends approval

City Administrator comments:



Date: September 5, 2017

To: Allen W. Meyer

From: Donald R. Cox *DRC*

RE: Transmission Operating Agreement

The U.S. Energy Policy Act of 2005 stated that compliance with electric reliability standards would be mandatory and enforceable for all qualifying electric utilities. In July, 2006, the Federal Energy Regulatory Commission ("FERC") certified the North American Electric Reliability Corporation ("NERC") to be the Electric Reliability Organization for the United States. Mandatory compliance of NERC reliability standards was implemented in June 2007.

Hastings Utilities ("Hastings") has been registered with NERC as a Transmission Owner ("TO"), subject to following all NERC reliability standards associated with the TO designation. On February 15, 2017, Hastings received written notification from the Midwest Reliability Organization ("MRO") that under the NERC Rules of Procedure, the MRO had determined Hastings would also be required to register as a Transmission Operator ("TOP") on the NERC Compliance Registry. Registering directly as a TOP would add significant NERC regulatory compliance obligations upon Hastings and come at a significant cost to our ratepayers. Hastings met with MRO/NERC staff on March 28, 2017 to discuss various options available to satisfy NERC TOP requirements. An alternative to Hastings registering directly as a TOP was to contract with an existing third party TOP to perform all TOP services on behalf of Hastings.

Over the past several months staff has been exploring the various compliance options available and after thorough evaluation, feels contracting with a third party TOP to perform TOP services will be the most cost effective solution for our ratepayers and will satisfy all TOP compliance obligations while still maintaining system reliability. Costs will still be significant but much less than if Hastings registered directly as a TOP and added the necessary support staff to perform TOP compliance requirements "in house". Three potential third party TOP providers were evaluated. Staff recommends proceeding with finalization of a Transmission Operating Agreement with the Omaha Public Power District ("OPPD").

Staff requests the Utility Board take action to recommend approval of the TOP services agreement with OPPD to the City Council, with Council approval on September 25, 2017. Please note pricing information is considered confidential but can be shared with the Utility Board in Executive Session if desired. I will be available at the September 14 Utility Board meeting to answer any questions that may arise.

"Locally owned and operated since 1886"

TRANSMISSION OPERATING AGREEMENT

·Between·

City of Hastings, Nebraska dba Hastings Utilities,

·And·

Omaha Public Power District

Dated as of

September 25, 2017

This **Transmission Operating Agreement ("Agreement")**, made this 25 day of September, 2017 between the **City of Hastings, Nebraska**, a Nebraska municipal corporation and political subdivision of the State of Nebraska, doing business as Hastings Utilities ("HAST") and **Omaha Public Power District ("OPPD")**, a public corporation and political subdivision of the State of Nebraska, hereinafter referred to individually as "Party" or collectively as "Parties," sets forth the agreement of the Parties for the operation of the HAST 115 kilovolt ("kV") electric transmission system and for the performance of North American Electric Reliability Corporation ("NERC") and/or Midwest Reliability Organization ("MRO") Reliability Standards activities related solely to the Transmission Operator ("TOP") function as that term is defined by NERC.

Recitals:

1. HAST is an electric utility engaged in the business of transmitting, distributing, and selling electric power and energy within its incorporated area and environs, and generating electric energy when required.

2. OPPD owns, leases or purchases the output of, and operates or has operating control over, certain electric generating facilities together with a transmission system and various distribution systems and is engaged in the generation, purchase, transmission, distribution and sale of electric power and energy at retail and at wholesale.

3. OPPD is a transmission owning member of the Southwest Power Pool ("SPP") Regional Transmission Operator ("RTO") and OPPD's transmission facilities are located in the SPP Balancing Authority ("BA"), Reliability Coordinator ("RC") and Planning Coordinator ("PC") areas.

4. HAST owns 115 kV electric transmission facilities.

5. HAST, as a participant in the former Nebraska Public Power District ("NPPD") BA, became a participant in the SPP BA upon the retirement of the NPPD BA on March 1st, 2014, the SPP BA is within the footprint of and takes services from the SPP RC, and under NERC Rules of Procedure, HAST electric load and generation are under the responsibility and control of the SPP BA.

6. Because the SPP BA is under the authority of the SPP RC, HAST is under the authority of the SPP RC and BA and the OPPD TOP.

7. NERC and MRO hold entities responsible for compliance with certain mandatory national or regional Reliability Standards promulgated pursuant to Section 215 of the Federal Power Act ("Reliability Standards") based on the function those entities perform with respect to the operation of the bulk power system.

8. Certain of the HAST Facilities are bulk power system facilities subject to NERC and/or MRO Reliability Standards applicable to the Transmission Operator ("TOP") function, as such term is defined by NERC.

9. OPPD is currently registered, among other functions, as a TOP for OPPD's high voltage electric transmission system.

10. The Parties desire to identify OPPD as the TOP for the HAST Facilities (as hereinafter defined) and specify the compliance task and activity responsibilities for all NERC and MRO Reliability Standards applicable to the TOP function for the HAST Facilities.

NOW THEREFORE, the Parties agree that the foregoing Recitals are a part of this Agreement and further agree as follows:

ARTICLE I: DEFINITIONS

The following terms, when used herein, shall have the meanings specified below:

"BES" shall mean Bulk Electric System per the NERC definition.

"CIP" shall mean Critical Infrastructure Protection.

"Effective Date" shall have the meaning set forth in Section 2.1 of the Agreement.

"Emergency Condition" shall mean a condition or situation (i) that in the judgment of a Party is imminently likely to endanger life or property; or (ii) that in the judgment of a Party is imminently likely to cause a material adverse effect on the operation of, or damage to the HAST Facilities or the electrical or transmission systems of others to which the HAST Facilities are directly or indirectly connected.

"EMS" shall mean Energy Management System, a system of computer-aided tools used by operators of electric utility grids to monitor, control, and optimize the performance of the generation and/or transmission system. The monitor and control functions are known as "SCADA" as defined herein.

"Equipment" shall mean any one or group of physical devices or apparatus used in conjunction with transmitting electrical energy across the BES, including, by way of example and not limitation, transformers, conductors, insulators, breakers, switches, relays, and meters.

"Facility(ies)" shall have the same meaning as in the Glossary of Terms Used in NERC Reliability Standards.

"Facility Ratings" shall have the same meaning as in the Glossary of Terms Used in NERC Reliability Standards.

"FERC" shall mean the Federal Energy Regulatory Commission or its successor agency.

"Glossary of Terms Used in the NERC Reliability Standards" shall mean said Glossary of Terms in effect as of the Effective Date and as revised from time to time after the Effective Date.

"Good Utility Practice" means any of the practices, methods, and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods, and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety, and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

"HAST Facilities" shall mean the 115 kV electric transmission facilities owned by HAST and identified in Exhibit A.

"IROL" shall mean Interconnection Reliability Operating Limits as defined in the Glossary of Terms used in the NERC Reliability Standards.

"Modification" means an addition, upgrade, removal, or replacement of Equipment and includes, but is not limited to, sectionalizing or tapping to facilitate the addition of a new substation, series capacitor or phase shifting transformer, and reconductoring in whole or in part, but excludes maintenance.

"MRO" shall mean the Midwest Reliability Organization or its successor regional reliability entity.

"NERC" shall mean the North American Electric Reliability Corporation or its successor.

"Operational Authority" for the purpose of this Agreement shall mean approving BES Equipment outages, directing the operation of BES Equipment and directing generation dispatch and load shedding to maintain the BES system within System Operating Limits.

"Operational Planning Analysis" shall have the same meaning as in the Glossary of Terms used in the NERC Reliability Standards.

"Operations Date" shall be the date established by the Parties at which OPPD begins performing day-to-day operations of the HAST Facilities.

"Outage" shall mean (i) the removal of Equipment from service, (ii) the unavailability of Equipment connection, (iii) the temporary de-rating of Equipment, (iv) the restriction of use of Equipment, or (v) the reduction in performance of Equipment for any reason.

"Real-Time Assessment" shall have the same meaning as in the Glossary of Terms Used in the NERC Reliability Standards.

"Reliability" for the purpose of this agreement shall mean operating the BES.

- a) Void of conditions leading to Adverse Reliability Impact events per the Glossary of Terms used in the NERC Reliability Standards.
- b) Identifying and mitigating IROL and SOL exceedances as required by the NERC Reliability Standards.

"Reliability Standards" shall mean the NERC and/or MRO Reliability Standards approved by the FERC and made legally effective applicable to the TOP function as the same may be revised from time to time.

"SPP" shall mean the Southwest Power Pool, Inc. or its successor.

"Supervisory Control and Data Acquisition" or "SCADA" shall have the same meaning as in the Glossary of Terms used in the NERC Reliability Standards.

"System Operating Limit" or "SOL" shall have the same meaning as in the Glossary of Terms used in the NERC Reliability Standards.

ARTICLE II: TERM OF AGREEMENT

2.1 Effective Date and Initial Term. This Agreement shall become effective January 15, 2018, or such other date thereafter mutually agreeable to both parties or as may be designated by FERC as the effective date of this Agreement (the "Effective Date") and shall remain in effect for an initial term of three (3) years ("Initial Term"). The Initial Term may be extended as provided in Section 2.2(c).

2.2 Reopeners and Extension of Initial Term.

- a) At any time after the Effective Date, if the HAST Control Center and/or the associated SCADA system is deemed "Medium Impact" under the CIP standards, either Party may by written notice request renegotiation of this Agreement, whereupon the Parties shall engage in good faith negotiations to revise the Agreement to address this change. Either Party may terminate this Agreement if the Parties are unable to reach agreement on revised terms within ninety (90) days of the written notice.

- b) At any time after the Effective Date, either Party may by written notice request renegotiation of the Agreement to address (a) the ownership of additional BES facilities by HAST that are not included in Exhibit A and OPPD's responsibilities for TOP functions with respect thereto; (b) compensation to OPPD for a performance issue associated with the HAST TOP functions that was unforeseen at the time of the initial contract; (c) allocation of responsibility between HAST and OPPD for new or revised TOP Reliability Standards; or (d) responsibility for any penalties, assessments, or any other obligations related to the performance or non-performance of HAST TOP functions. Upon issuance of such notice, the Parties shall engage in good faith negotiations to revise the Agreement to address the foregoing circumstances. Either Party may terminate this Agreement if the Parties are unable to reach agreement on revised terms within one hundred eighty (180) days of the written notice.
- c) No less than one (1) year prior to the expiration of the Initial Term, either Party may by written notice request renegotiation of the Agreement for a new term to be effective upon expiration of the Initial Term. Any new agreement or agreement to extend the term of this Agreement beyond the Initial Term shall be executed at least one-hundred eighty (180) days prior to the end of the Initial Term.

2.3 Effect of Non-Continuation. Upon the effective date of termination of this Agreement, HAST shall (a) assume responsibility for performance of HAST TOP functions or (b) make other arrangements for performance of HAST TOP functions and (c) OPPD shall be released from responsibility for TOP functions for the HAST Facilities. OPPD will cooperate with HAST in connection with such transfer. OPPD assumes no responsibility for performing any HAST TOP functions or for any penalties, assessments, or any other obligations related to the performance or non-performance of HAST TOP functions upon and after termination of this Agreement. Termination of this Agreement shall not relieve either Party of any liability or monetary obligation, with respect to this Agreement, arising from conduct, action, or inaction that occurred prior to the effective date of such termination. During the period from such notice of termination of this Agreement until the date the termination is effective, HAST and OPPD agree to perform all the obligations and responsibilities of this Agreement.

2.4 Other Early Termination. In addition to termination pursuant to Section 2.2, this Agreement may be terminated earlier than the expiration of Initial Term (a) by mutual agreement of the Parties or (b) by a one (1) year notification by one Party to another submitted no sooner than 1 year after the initial Effective Date identified in Section 2.1 or (c) upon written notice by one Party to the other in the event of a breach by the other Party of any material obligation under this Agreement provided, however, the breaching Party will have sixty (60) days to cure the material breach without termination of this Agreement.

ARTICLE III: OBLIGATIONS AND RESPONSIBILITIES

3.1 General. OPPD and HAST agree to use commercially reasonable efforts to monitor, operate, and maintain the HAST Facilities (a) in a safe and reliable manner; (b) in accordance with Good Utility Practice; (c) in accordance with the applicable NERC Reliability Standards and SPP Criteria.

3.2 Reliability. OPPD agrees to be responsible for identifying and mitigating operating conditions that affect the Reliability of the HAST BES. HAST agrees to work with OPPD to develop and apply joint mitigating actions to maintain the Reliability of the BES.

3.3 Cooperation. As soon as practicable after the execution of this Agreement, HAST and OPPD agree to work together as follows:

- a) The Parties agree to cooperate in identifying any data, information, Equipment, or SCADA enhancements needed by OPPD to evaluate and maintain reliable operation of the HAST Facilities in compliance with applicable Reliability Standards and to develop a schedule for provision or completion of such needed data, information, equipment, or system enhancements

with the goal of having the initial data, information, Equipment, and SCADA needs identified and in place by the Effective Date of this Agreement. For items that cannot reasonably be provided or installed by the Effective Date of this Agreement, a schedule for delivery or installation of the item will be developed by the Parties.

- b) The Parties agree to provide to one another information needed to respond to any request for information issued by NERC, MRO, or FERC related to OPPD's performance of HAST TOP functions. HAST shall be responsible for the costs of implementation of all Modifications or maintenance to the HAST Facilities as may reasonably be required to effectuate OPPD acting as the TOP for the HAST Facilities and to comply with future changes to TOP function Reliability Standards or SPP Criteria.
- c) The Parties also agree to share data or documentation as may be required to demonstrate compliance with other Reliability Standards where one Party has possession of data or documentation necessary for the other Party to demonstrate compliance.

3.4 OPPD (Transmission Operator). Upon the Effective Date of this Agreement, OPPD shall be designated the TOP for the HAST Facilities and have monitoring and Operational Authority of the HAST Facilities in OPPD's Transmission Control Center as defined herein and in accordance with the terms and conditions set forth herein.

- a) All OPPD personnel performing monitoring and Operational Authority of the HAST Facilities shall be certified operators according to NERC Reliability Standards requirements. HAST shall provide any necessary training to OPPD personnel to meet applicable NERC Reliability Standards prior to the Effective Date of this agreement.
- b) OPPD will be responsible for compliance with the Reliability Standards applicable to the TOP functions with respect to the HAST Facilities and shall be supported by HAST as prescribed herein for the term of this Agreement.

3.5 HAST (Transmission Owner). HAST shall be the NERC registered Transmission Owner ("TO") for the HAST Facilities. HAST shall (i) own and maintain the HAST Facilities; (ii) operate HAST Facilities under the direction of OPPD's Transmission Control center; (iii) establish ratings for the HAST Facilities; (iv) install and maintain the HAST Facilities and rights-of-way according to Good Utility Practice; (v) provide notification of status, failure and degradation of the HAST equipment; (vi) coordinate transmission facility changes with the PC; (vii) coordinate requests from Generator Owners, other Transmission Owners, and Distribution Providers desiring to connect with the HAST Facilities;

- a) HAST shall provide and maintain at its cost the necessary communications systems internal to HAST to provide for OPPD to monitor and have Operational Authority over the HAST Facilities.
- b) If deemed necessary by both Parties, HAST shall provide at its cost or compensate OPPD for the necessary communications system to directly communicate with OPPD and its EMS. OPPD is allowed to pass on loaded costs to HAST for respective EMS changes and other associated work.

3.6 Charges. HAST agrees to pay OPPD for the performance of (1) the TOP functions, including real-time monitoring and Operational Authority of the HAST Facilities and (2) performing NERC TOP function compliance tasks and activities for the HAST Facilities in accordance with the provisions of this Agreement.

- a) The charge to perform TOP functions for the Initial Term including real-time monitoring and Operational Authority of the HAST Facilities shall not exceed _____ per month (the "base rate"), fixed for the duration of the Initial Term. In addition, an on-boarding charge not to exceed

_____ will be billed as services are completed and invoicing for associated on-boarding costs will occur no more than once per month.

- b) HAST will reimburse OPPD for all (i) third party costs incurred by OPPD that are necessary for performing its service obligations under this Agreement, including third party start-up costs incurred by OPPD in preparation of assuming real-time monitoring and Operational Authority responsibilities and (ii) any applicable NERC, MRO, FERC or other Federal Regulatory Agency fees and penalties. OPPD will provide HAST with documentation of all such third party costs and regulatory fees and penalties.

- 3.7 Invoicing and Payment.** OPPD shall invoice HAST monthly for the services provided for by this Agreement and in accordance with Section 3.6. Such invoices shall contain a description of the charges and shall be paid by HAST within twenty (20) days of receipt. If the due date falls on a Saturday, Sunday, or holiday, such due date shall be the next business day. Payments received after the due date shall be considered late and shall bear interest on the payment due at a rate equal to the average daily prime rate as determined from the "Money Rates" section of the Midwest Edition of the Wall Street Journal for the days of the late payment period times the number of days elapsed from and including the day after the due date, to and including the payment date.

Invoicing and Payment Contacts:

For HAST:

Hastings Utilities
Manager of Utilities
PO Box 289
Hastings, NE 68902-0289

For OPPD:

Omaha Public Power District
Accounts Receivable 4E/EP5
444 S. 16th Street Mall
Omaha, NE 68102

- 3.8 Operating Procedures.** The Parties agree to coordinate the development, use, and modification of operating procedures relating to the HAST Facilities with the SPP BA and RC in accordance with Good Utility Practice and consistent with applicable SPP Protocols, Criteria, and Business Practice requirements and the Reliability Standards.
- 3.9 Operations Contacts.** Upon execution of this Agreement, each Party shall provide names and telephone numbers for contacts to the Parties' respective system control centers, Outage coordination, and dispatch operations. Each Party shall make prompt notification to the other Party when a change to the contact information occurs.

ARTICLE IV: COORDINATION

- 4.1 Near-Term Coordination.** The Parties agree to cooperate and use commercially reasonable efforts to notify the other Party as soon as practicable of any situation involving the operating capabilities of the HAST Facilities. As between HAST, OPPD, and SPP, OPPD may consult with HAST regarding operational situations and SPP RC will have the sole authority in making the final decision on all planned or emergency operating matters, other than those for an emergency as described in Article VI.
- 4.2 Planned Switching and Outage Coordination.** For any planned switching, Outages, or modified operation of the 115 kV electrical system components referenced in Exhibit A or otherwise covered by this Agreement, the Parties agree to provide the SPP RC and each other with as much advance notice as practical and no less than current SPP Outage scheduling requirements. OPPD will work with HAST to evaluate the impact of the Outage or switching on the HAST Facilities. In addition, OPPD has the responsibility to determine the impact of the Outage or switching on the neighboring TOP. In the event that unacceptable conditions would result from any planned Outage or switching, the Parties will work together with the SPP RC to determine mutually acceptable dates and times for the activities to take place.

Planned switching or modified operation of the electrical system components include, but is not limited to, the following types of work activity:

- Breaker Maintenance
- Disconnect Maintenance
- Transmission Line Maintenance
- De-energization of Electrical Equipment for physical electrical clearance purposes (for example, house moving under the line)
- Relay Maintenance
- Substation Battery Maintenance
- Remote Terminal Unit (RTU) Maintenance
- Phone Circuit Maintenance (when the circuit is used for protection system communications or RTU communications)
- Activity which alters the performance of metering, recording, or monitoring Equipment associated with transmission Equipment operation.
- Construction or Modification of HAST Facilities
- Metering Equipment testing or maintenance

ARTICLE V: FIELD OPERATION AND FIELD-TO-DISPATCH FUNCTIONS

- 5.1 Hold Card/Safety Tagging.** HAST shall be responsible for issuing Clearances to HAST personnel and shall document and utilize a "Hold Card" and "Clearance" system which shall be consistent with OSHA standards and regulations. Switches opened for the protection of human life, limb, or property shall be tagged using a properly filled out Hold Card and properly recorded.

ARTICLE VI: OPPD DISPATCH TO HAST OPERATIONS CENTER FUNCTIONS

- 6.1 Switching.** On the date switching is performed on BES equipment indicated, HAST will first notify OPPD's System Operator that such activity is about to commence and request permission to proceed. OPPD will notify SPP that such activity is about to commence. This notification shall be in addition to the advance notice and coordination described in Section 4.2 because system conditions may have changed from the time coordination approval was granted. OPPD will communicate to HAST that switching may proceed.

In the event work cancellations are required due to changes in system conditions, the OPPD Control Center or the HAST operations center, with knowledge of the changes or unacceptable conditions, shall notify the other Party as soon as possible of the need to cancel the planned work activity.

- 6.2 Emergency Switching.** In the event of an Emergency Condition, HAST upon becoming aware of the Emergency Condition may, in accordance with Good Utility Practice and using its reasonable judgment, take such action as is reasonable and necessary to prevent, avoid, or mitigate injury and danger to, or loss of, life or property. HAST may take action to resolve the Emergency Condition and shall inform OPPD's Control Center of the Emergency Condition and actions taken.

During Emergency Conditions, both Parties agree to work together and coordinate efforts to restore electrical service and return system operating conditions back to normal conditions as soon as reasonably possible. The OPPD's Control Center and the HAST operations center will coordinate restoration efforts and promptly report to one another any abnormal conditions, such as downed conductors or failed equipment.

Re-energization of outaged transmission equipment and test energization of equipment which has tripped out of service will be coordinated between the Parties. HAST will first notify OPPD System Operator that such activity is about to commence and request permission to proceed.

ARTICLE VII: TECHNICAL INFORMATION EXCHANGE

- 7.1 Real-time Information and Operational Data.** HAST agrees to provide OPPD with real-time metering information and operational data necessary for OPPD to fulfill its obligations under this Agreement. HAST agrees to provide OPPD's Control Center with the necessary real-time metering information and operational data via a SCADA link or other acceptable method. No reasonable request from OPPD for operational data shall be denied or unduly delayed in being made available to OPPD. The cost for HAST to provide HAST Facility operational data to OPPD's SCADA/EMS system shall be borne by HAST unless otherwise agreed to by both Parties.

Each Party shall be responsible to immediately notify the other Party of any corrections or updates to operational data or information that pertains to the operation of the HAST Facilities.

- 7.2 One-Line Diagram.** HAST shall maintain and make available to OPPD a detailed electrical system one-line diagram, in the form provided in Exhibit A, depicting the HAST Facilities.

Both Parties recognize that the area one-line diagram, as revised from time to time, is not the record drawing which shall be used for the purpose of providing clearance for safe electrical work. It remains the responsibility of HAST to determine the isolation requirements for safe electrical clearance. Exhibit A is provided only as a reference item.

- 7.3 Data Accuracy.** A Party providing information, data, and documentation pursuant to this Article VII shall exercise reasonable efforts to provide complete and accurate information, data, and documentation requested of it, but in no event shall such Party be deemed to have made any guaranty, representation, or warranty with respect to the completeness or accuracy of any such information and documentation.

ARTICLE VIII: RELIABILITY STANDARDS COMPLIANCE

- 8.1 Obligations.** As may be amended from time to time, HAST shall be responsible for supporting OPPD in complying with the Reliability Standards per compliance tasks or activities applicable to the TOP function pursuant to the TOP Operating Protocols which may change from time to time.

- a) HAST shall be responsible for notifying OPPD of any changes to the TOP function Reliability Standards applicable to the HAST Facilities as soon as practicable and in advance of the effective date.
- b) The Parties agree to (i) cooperate in reviewing all new, existing, or modified TOP function Reliability Standards, (ii) cooperate in assigning compliance activity responsibilities, and (iii) update the TOP Operating protocols to document the assigned task responsibilities. Updates to the TOP Operating Protocols shall be documented by the Parties as version changes but will not be amendments to this Agreement.

- 8.2 Compliance Contacts.** Upon execution of this Agreement, each Party shall provide the name and telephone number of at least one primary Reliability Standards compliance point of contact who shall be responsible for the matters of ensuring compliance with the TOP Reliability Standards pertaining to this Agreement as set forth in the TOP Compliance matrix. Each Party shall make prompt notification to the other Party when a change to the contact information occurs.

- 8.3 Penalties; Payments.** HAST agrees that HAST shall be solely responsible for any penalties, sanctions, or remedial actions imposed on OPPD's TOP by the MRO, NERC, FERC, or other agency resulting from a violation of any TOP Reliability Standard(s) if and to the extent related to OPPD TOP's operation of the HAST Facilities. Any such penalty, sanction or remedial action imposed upon OPPD as a result of OPPD TOP's gross negligence or willful misconduct, shall be paid for by or be the responsibility of OPPD.

- a) OPPD TOP will notify HAST within sixty (60) days of any alleged or potential violation related to TOP Reliability Standards ("Notification Period"), including but not limited to self-reports, audit or spot check determinations or other means of discovery by or notification to OPPD, mitigation with respect to such alleged or potential violation, and challenge taken with respect to such alleged or potential resolution (e.g., settlement or agreement to pay a penalty) with respect to any alleged or potential violation. Failure by OPPD to notify HAST within the Notification Period does not relieve HAST of its obligation to pay its share of any Penalty associated with the alleged or potential violation requiring the notice.
- b) OPPD shall approach resolution of any penalty, sanction, or remedial action imposed by the MRO, NERC, or FERC resulting from a violation of any TOP Reliability Standard associated with the HAST Facilities consistent with how it would respond to similar violations associated with operating OPPD facilities. HAST and OPPD shall cooperate in initiating and pursuing a challenge to penalties, sanctions, or remedial actions resulting from a violation. Any costs associated with pursuing such challenges and for submitting remedial action plans shall be borne by HAST.

8.4 Required Reporting. The Parties shall provide to each other information needed to comply with reporting requirements of MRO, NERC, FERC, SPP RC, and any successor organizations in connection with this Agreement. The requesting Party shall have full responsibility for preparing and submitting all such reports and the Party providing information shall have the right to review all such reports and documentation used by the requesting Party to compile such reports. Nothing contained herein shall be deemed to require any Party to provide testimony for or on behalf of another Party.

ARTICLE IX: GENERAL

- 9.1 Force Majeure.** The performance of each Party under this Agreement is subject to interruptions or reductions due to an event of Force Majeure. The term "Force Majeure" shall mean an event beyond the control of the Party affected, which, by exercise of due diligence and foresight, could not reasonably have been avoided, including, but not limited to, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, terrorist act, sabotage, strike, and act of God or any other cause beyond the control of the Party affected. The Party rendered unable to fulfill any obligation by reason of a Force Majeure shall exercise due diligence to remove such inability with all reasonable speed and diligence and in accordance with Good Utility Practice. However, the obligation to use due diligence shall not be interpreted to require resolution of labor disputes by acceding to demands of the opposition when such course is inadvisable in the discretion of the Party claiming Force Majeure.
- 9.2 Limitation of Liability.** Neither Party, nor its respective officers, directors, trustees, agents, employees, successors, assigns, or subcontractors, shall be liable to the other Party or its officers, directors, trustees, agents, employees, successors, assigns, or subcontractors for claims, suits, actions, causes of action or otherwise for incidental, punitive, special, indirect, or consequential damages including but not limited to loss of use, loss of revenue, loss of profit, and/or cost of replacement power, interest charges, cost of capital and also including costs of reasonable fees connected with, or resulting from, performance or non-performance of this Agreement or any action undertaken in connection with, or related to this Agreement, including, without limitation, any such damages which are based upon causes of action for breach of contract, tort (including negligence and misrepresentation), breach of warranty, or strict liability.
- 9.3 Indemnity.** Subject to Section 9.2, each Party shall indemnify, save harmless and defend the other, its parent, contractors and subcontractors and successors, and their respective trustees, agents, officers, directors, managers, employees, and representatives, and their heirs, successors and assigns, against all claims, demands, losses, judgments, damages incurred by the indemnified Party in any actions or proceedings between the indemnified Party and a third party), related to property damage, personal injuries or death suffered by third persons resulting from any act or failure to act by such indemnifying Party related to this Agreement, or from the execution by such Party of any activity contemplated by this Agreement, regardless of whether attributable (in whole or in part) to any act, omission, negligence,

(active, passive, sole, joint or concurrent with that of the indemnified Party or any other person), strict liability, any condition or defect on or in any property, or other fault or responsibility of the indemnified Party or any other person or party (whether such liability is based on contract, warranty, tort, statute or otherwise), except that if the property damage, personal injuries, or death are caused in part, but not entirely, by the indemnified Party then the indemnifying Party shall be obligated under this Section only to the extent of the percentage of fault attributed to such indemnifying Party and/or its affiliates, employees, agents, representatives, contractors or subcontractors.

- 9.4 Notices.** Any notice, demand, request, or communication required or authorized by this Agreement shall be hand delivered, mailed by certified mail, electronically mailed, or via facsimile, to Parties as shown below. This designation may be changed at any time by written notice to the other Party.

To HAST:

Hastings Utilities
Manager of Utilities
PO Box 289
Hastings, NE 68902-0289

To OPPD:

Aaron Smith
Omaha Public Power District
4325 Jones Plaza
Omaha, NE 68105

- 9.5 Access Rights.** Each Party retains the right to access equipment it owns, operates, or maintains at any time, provided that a Party requiring access to the other Party's site gives advanced notice and follows all safety protocols established by the site owner for accessing and working at the site.

- 9.6 Continued Operation.** In the event of a breach or default by either Party, the Parties shall continue to operate and maintain, as applicable, such DC power systems, protection and metering equipment, telemetering equipment, SCADA equipment, transformers, secondary systems, communication equipment, building facilities, software, documentation, structural components, and other facilities and appurtenances that are reasonably necessary for maintaining the safe and reliable operation of the HAST Facilities and interconnected electric transmission systems.

ARTICLE X: CONFIDENTIALITY

- 10.1** During the term of this Agreement, one Party (the "Receiving Party") may receive and otherwise be exposed to the other Party's (the "Disclosing Party") confidential and proprietary information, including information that is considered by a Party to be "Critical Energy Infrastructure Information" as that term is defined in 18 C.F.R 388.113, which information is not generally known to others (collectively, "Confidential Information").

- 10.2** Confidential Information shall include, but not be limited to OPPD's prices under this Agreement, all marketing, operational, economic or financial knowledge, information, memoranda, notes, reports, records or data of any nature whatsoever which has been or may hereafter be provided or disclosed by the Parties in connection with this Agreement or that which the Parties would expect not to be made available to third parties without restriction and/or payment. The Parties may be required to disclose any of the following information, all of which is Confidential Information:

- System operating one line drawings;
- Geospatial locations of transmission facilities- (GIS data);
- Transmission line plan and profile drawings and any other engineering drawings;
- Substation engineering drawings, including one-lines, metering and relaying drawings, layouts, schematics, and any other engineering drawings;
- Equipment and facility information and ratings as required by NERC reliability standards FAC-008;
- Facility Rating Methodology documents used for NERC FAC-008 compliance;
- Protective relaying information and settings, as required for NERC PRC standards to coordinate

- protective relaying with other utilities;
- System models and data used for performing power system calculations such as load flow calculations, short circuit studies, or relay coordination studies;
- Transmission metering point data;
- Images, details, system operating guides and Special Protection System functionality;
- Right-of-way (ROW) plats indicating detailed information such as legal descriptions and facility location within the ROW;
- Critical Energy Infrastructure Information (Ceil) as defined by the FERC;
- Critical Infrastructure Protection (CIP) information some of which may be classified as Confidential Restricted Information (CRI), as defined by NERC Reliability Standards CIP-002 et seq.; and
- General system knowledge that is not public information.

Notwithstanding the foregoing, no information disclosed shall be considered Confidential Information unless it is clearly marked "Confidential." No information disclosed verbally shall be considered to be Confidential Information unless such information is (a) verbally described as such by the Disclosing Party at the time of disclosure, and (b) the Disclosing Party sends the Receiving Party a written summary of the disclosure marked "Confidential" within five business days after the time of disclosure. Furthermore, all copyright notices in the original Confidential Information must be affixed to each copy of the Confidential Information.

- 10.3** Confidential Information does not include information which: is or becomes available to the public through no act or omission of the Receiving Party; or is proven to have been previously disclosed to or known by the Receiving Party prior to disclosure by the Disclosing Party; or was lawfully received by the Receiving Party from third parties without any obligation to hold it in confidence; or is approved for release by written authorization of the Disclosing Party, but only to the extent of and subject to such conditions as may be imposed in such written authorization; or is disclosed in response to a valid order of a court or other governmental or regulatory body of the United States, any state or any political subdivisions thereof, but only to the extent of and for the purposes of such order, provided, however that the Receiving Party shall first notify the Disclosing Party of the order and permit the Disclosing Party to seek an appropriate protective order.
- 10.4** The Receiving Party shall use the Confidential Information only in its performance in complying with its duties and obligations of this Agreement and as otherwise specified by the Disclosing Party. The Receiving Party agrees it will not reproduce Confidential Information in any manner or medium without prior written consent of the Disclosing Party, use any Confidential Information for any purpose other than in complying with its duties and obligations of this Agreement, or divulge any part of Confidential Information in any form to any third party, except to the Receiving Party's agents, representatives, or consultants as may be required by the agent, representative, or consultant to perform the duties and obligations in support of the Receiving Party performing their duties and obligations. The agent, representative, or consultant is hereby bound by the same conditions outlined in this agreement. The Receiving party may also be required to disclose certain Confidential Information as required by regulatory body or other legal imposition. The Receiving Party shall promptly notify the Disclosing Party of the requirement to disclose the Confidential Information.
- 10.5** Immediately upon either receipt of written notice from the Disclosing Party or upon termination of this Agreement for any reason, whichever occurs first, the Receiving Party agrees that, subject to the provisions of this Agreement, it shall cease using and shall return to the Disclosing Party all whole and partial copies and derivatives of the Confidential Information.
- 10.6** Both Parties acknowledge they are aware of the Standards of Conduct imposed by Order 717 of the FERC. Neither Party shall, directly or indirectly, reveal any non-public transmission function information (as defined in 18 C.F.R. § 358.3j), as such rules may be interpreted, amended, or replaced by FERC from time to time) in a manner that violates 18 C.F.R. §§ 358.6 and 358.7, as such rules may be interpreted,

amended, or replaced by FERC from time to time (the "FERC Standards of Conduct"). Both Parties also agree to comply with statutory and FERC requirements regarding the handling of Critical Energy Infrastructure Information. The confidentiality provisions of this Agreement shall remain in full force and effect after the termination of this Agreement for a period of three (3) years for any Confidential Information held by a Party on or before termination of this Agreement.

ARTICLE XI: INSURANCE

- 11.1** Each Party shall, at its own expense, maintain in force throughout the period of this Agreement, and until released by the other Party, the following minimum insurance coverages, or self-insurance, with insurers authorized to do business in the state of Nebraska:
- 11.2** Employers' liability and workers' compensation insurance providing statutory benefits in accordance with the laws and regulations of the state of Nebraska.
- 11.3** Commercial general liability insurance, including premises and operations, personal injury, broad form property damage, broad form blanket contractual liability coverage (including coverage for the contractual indemnification) products and completed operations coverage, coverage for explosion, collapse and underground hazards, independent contractors coverage, coverage for pollution to the extent normally available and punitive damages to the extent normally available and a cross liability endorsement, with minimum limits of one million dollars (\$1,000,000) per occurrence/three million dollars (\$3,000,000) aggregate combined single limit for personal injury, bodily injury, including death and property damage.
- 11.4** Comprehensive automobile liability insurance for coverage of owned and non-owned and hired vehicles, trailers or semi-trailers designed for travel on public roads, with a minimum, combined single limit of one million dollars (\$1,000,000) per occurrence for bodily injury, including death and property damage. Excess public liability insurance over and above the employers' liability commercial general liability and comprehensive automobile liability insurance coverage, with a minimum combined single limit of four million dollars (\$4,000,000) per occurrence/four million dollars (\$4,000,000) aggregate.
- 11.5** The commercial general liability insurance, comprehensive automobile insurance and excess public liability insurance policies shall name the other Party, its respective parent, associated and Affiliate companies and its respective directors, officers, agents, servants and employees ("Other Party Group") as additional insured. All policies shall contain provisions whereby the insurers waive all rights of subrogation in accordance with the provisions of this Agreement against the Other Party Group and provide thirty (30) Days advance written notice to the Other Party Group prior to anniversary date of cancellation or any material change in coverage or condition.
- 11.6** The commercial general liability insurance, comprehensive automobile liability insurance and excess public liability insurance policies shall contain provisions that specify that the policies are primary and shall apply to such extent without consideration for other policies separately carried and shall state that each insured is provided coverage as though a separate policy had been issued to each, except the insurer's liability shall not be increased beyond the amount for which the insurer would have been liable had only one insured been covered. Each Party shall be responsible for its respective deductibles or retentions.
- 11.7** The commercial general liability insurance, comprehensive automobile liability insurance and excess public liability insurance policies, if written on a claims first made basis, shall be maintained in full force and effect for two (2) years after termination of this Agreement, which coverage may be in the form of tail coverage or extended reporting period coverage if agreed by the Parties.
- 11.8** Within thirty (30) days of receiving a written request by the other Party, each Party shall provide to the requesting Party certification of all insurance required in this Agreement, executed by each insurer or by an authorized representative of each insurer.

- 11.9 Notwithstanding the foregoing, each Party may self-insure to meet the minimum insurance requirements of Sections 11.1 through 11.8 to the extent it maintains a self-insurance program. Should a Party elect to self-insure to meet the minimum insurance requirements of Sections 11.1 through 11.8, that Party shall provide documentation that the self-insurance program meets the minimum insurance requirements of this Agreement.

ARTICLE XII: DISPUTE RESOLUTION AND ARBITRATION

- 12.1 **Disputes.** Any dispute between the Parties, other than a matter arising out of or relating to this Agreement over which FERC has jurisdiction, shall be referred to an OPPD officer and HAST official to be designated by the Parties for resolution on an informal basis as promptly as practicable. In the event these designated representatives are unable to resolve the dispute within a reasonable period of time, not to exceed thirty (30) days or such other period as the Parties may agree upon in writing or via e-mail, such dispute may be submitted for resolution to the District Court of Adams County, Nebraska.
- 12.2 **Continued Performance.** The Parties shall continue to perform their obligations hereunder during the pendency of a dispute hereunder.
- 12.3 **Effect of Termination.** This Article XII shall survive the termination of this Agreement as necessary to resolve any disputes arising under this Agreement.

ARTICLE XIII: MISCELLANEOUS

- 13.1 **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior written or oral understandings or agreements related to the operation of HAST Facilities. Failure of HAST or OPPD to insist on performance of any of the terms and conditions of this Agreement, or to exercise any right or privilege contained in this Agreement, shall not be considered as waiving any such terms, conditions, rights, or privileges. No waiver shall be effective unless reduced to writing and executed by both Parties. This Agreement and its Exhibits may be modified only in a writing signed by the Parties hereto.
- 13.2 **Survival.** All remedies and indemnities and other provisions of this Agreement which continue notwithstanding termination, shall survive the termination of this Agreement.
- 13.3 **Exhibits.** The following Exhibit to this Agreement is hereby incorporated by reference into and shall form part of this Agreement: Exhibit A (System One-Line Drawing).
- 13.4 **No Third-Party Beneficiaries.** This Agreement is intended to be solely for the benefit of OPPD and HAST and their successors and permitted assigns and is not intended to and shall not confer any rights or benefits on any third party not a signatory hereto.
- 13.5 **Severability.** In the event that any provision of this Agreement is deemed as a matter of law to be unenforceable or null and void, such unenforceable or void portion of such provision shall be deemed severed from this Agreement, unless the removal of the unenforceable provision materially alters the rights or obligations of either Party hereunder. Even if there is a material alteration in the remainder of the Agreement, the Agreement shall continue in full force and effect as if such provision was not contained herein, but the Parties shall negotiate in good faith a new provision that will, to the extent practical, restore the benefit of the bargain contained in such provision.
- 13.6 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska, without regard to Nebraska choice of law provisions.
- 13.7 **Headings.** The headings set forth herein are inserted for convenience and shall have no effect on the

interpretation or construction of this Agreement.

- 13.8 Counterparts.** This Agreement may be executed in one or more counterparts, and each counterpart shall have the same force and effect as the original instrument.
- 13.9 Independent Contractor.** OPPD shall be an independent contractor and not a joint venturer in the performance of this Agreement. Nothing in this Agreement shall be construed to constitute either Party as a partner, joint venturer, joint employer, agent, or representative of the other Party. Each Party shall have discretion in the performance of the work under this Agreement to control and direct its own personnel performing such work. No employee, agent, servant of a Party shall be or shall be deemed to be an employee, agent or servant of the other Party or joint employees, servants or agents of the Parties.
- 13.10 No Waivers.** The failure of one Party to insist upon or enforce, in any instance, strict performance by the other Party of any of the terms of this Agreement, including those relating to compensation or to the exercise of any right herein conferred, shall not be construed as a waiver or relinquishment to any extent of its right to assert or rely upon such terms or rights on any future occasion.
- 13.11 Review Rights.** Subject to the requirements of confidentiality under Article 10 of this Agreement and the record retention policies of the respective Parties, the accounts and records related to this Agreement, other than pricing information, shall be subject to review during the period of this Agreement and for a period of ninety (90) days following issuance of an invoice in accordance with Section 3.6. Either Party or its agents may, at its expense, during normal business hours and upon prior reasonable notice, audit such accounts and records. Any review authorized by this Section 13.12 shall be performed at the offices where such accounts and records are maintained, at the sole expense of the reviewing Party, and shall be limited to those portions of such accounts and records that relate to obligations under this Agreement.
- 13.12 Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. The Parties shall not assign their rights or obligations hereunder without express written approval of the other, except a Party may assign its rights and obligations to a purchaser (or an affiliate) who will own all or substantially all of the Party's assets and shall then be bound by all of the provisions of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the day and year first above written.

CITY OF HASTINGS, NEBRASKA D/B/A
HASTINGS UTILITIES,
A Nebraska municipal corporation

By: _____

Title: Mayor of Hastings, Nebraska

Date: September 25, 2017

OMAHA PUBLIC POWER DISTRICT,
A public corporation and political subdivision of the State of
Nebraska

By: _____

Title: _____

Date: _____

[SIGNATURE PAGE]

1721154.3

1.) Reference Drawing:

