



## MEETING AGENDA – DECEMBER 18, 2018

BOARD ROOM  
4000 EAST RIVER ROAD NE  
ROCHESTER, MN 55906

4:00 PM

### **Call to Order**

- 1. Approval of Agenda**
- 2. Safety Moment**
- 3. Approval of Minutes**

1. Public Utility Board - Regular Meeting - Nov 27, 2018 4:00 PM

- 4. Approval of Accounts Payable**

1. a/p board listing

- 5. Recognition of Mark Browning**

1. Resolution: Recognition of Mark Browning

### **NEW BUSINESS**

### **Open Comment Period**

*(This agenda section is for the purpose of allowing citizens to address the Utility Board. Comments are limited to 4 minutes, total comment period limited to 15 minutes. Any speakers not having the opportunity to be heard will be the first to present at the next Board meeting.)*

- 6. Consideration Of Bids**

1. Lake Zumbro Secondary Slide Gate System

Resolution: Lake Zumbro Secondary Slide Gate System

- 7. Regular Agenda**

1. Badger-Coulee Transmission Project Agreement

Resolution: Badger-Coulee Transmission Project Agreement

2. Customer Service Center Building Expansion Project Scope Addition

Resolution: Customer Service Center Expansion - Change in Scope

3. Authorized Depositories

Resolution: Authorized Depositories

4. Board Member Expenses Policy

Resolution: Board Member Expenses Policy

5. Board Member Attendance at Conferences and Meetings Policy

Resolution: Board Member Attendance at Conferences and Meetings Policy

- 8. Board Liaison Reports**

- 9. General Managers Report**

- 10. Division Reports & Metrics**

**11. Other Business**

**12. Adjourn**

**The Board will adjourn to the Community Room for an appreciation program for Board Member Mark Browning following the meeting.**

*The agenda and board packet for Utility Board meetings are available on-line at [www.rpu.org](http://www.rpu.org) and <http://rochestercitymn.igmp2.com/Citizens/Default.aspx>*



## MEETING MINUTES – NOVEMBER 27, 2018

BOARD ROOM  
4000 EAST RIVER ROAD NE  
ROCHESTER, MN 55906

4:00 PM

### Call to Order

Attendee Name	Title	Status	Arrived
Mark Browning	Board Member	Present	
Tim Haskin	Board Member	Present	
Melissa Graner Johnson	Board Vice President	Present	
Brian Morgan	Board President	Present	
Michael Wojcik	Board Member	Present	

### 1. Approval of Agenda

- Motion to:** approve the agenda as presented

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Wojcik, Board Member
<b>SECONDER:</b>	Melissa Graner Johnson, Board Vice President
<b>AYES:</b>	Browning, Haskin, Johnson, Morgan, Wojcik

### 2. Safety Moment

President Brian Morgan spoke on cold winter temperatures and limiting time spent outdoors in sub-zero wind chills to avoid frostbite and hypothermia. He cited the National Weather Service as a good resource, saying additional information can be found on their website weather.gov. General Manager Mark Kotschevar stated that the topic of this month's training for the RPU utility crews is heat and cold stress.

### 3. Approval of Minutes

- Public Utility Board - Special Meeting - Nov 20, 2018 4:00 PM
- Motion to:** approve the Minutes of November 20, 2018 as presented

*Board Member Mark Browning asked if the rate tariffs have been updated since the November 20, 2018 meeting. General Manager Mark Kotschevar replied that the updated tariffs have been submitted to the Rochester City Council for approval. Vice President Johnson requested staff to look into the publishing of the July Board minutes based on an inquiry from Rochester resident Micah Johnson.*

<b>RESULT:</b>	<b>APPROVED [4 TO 0]</b>
<b>MOVER:</b>	Mark Browning, Board Member
<b>SECONDER:</b>	Michael Wojcik, Board Member
<b>AYES:</b>	Mark Browning, Tim Haskin, Melissa Graner Johnson, Brian Morgan
<b>ABSTAIN:</b>	Michael Wojcik

### 4. Approval of Accounts Payable

Minutes Acceptance: Minutes of Nov 27, 2018 4:00 PM (Approval of Minutes)

1. a/p board listing
2. **Motion to:** approve the a/p board listing as presented

*Board Member Michael Wojcik asked about the current status of RPU's policy on credit card charges that utilize point/reward programs. General Manager Mark Kotschevar said this will be discussed in greater detail later in the agenda. Vice President Johnson asked how much the utility would save if a \$2,000 per transaction limit was established as proposed. Director of Corporate Services Peter Hogan said the limit would save about half of what the utility is currently charged.*

*President Morgan referenced a charge on line item 47 to Edelmann & Associates Inc for a dirty condensate pump and driver, and asked if a pump was rebuilt. Mr. Kotschevar stated that this was for dirty condensate at Silver Lake Plant.*

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Tim Haskin, Board Member
<b>SECONDER:</b>	Michael Wojcik, Board Member
<b>AYES:</b>	Browning, Haskin, Johnson, Morgan, Wojcik

## NEW BUSINESS

### Open Comment Period

*(This agenda section is for the purpose of allowing citizens to address the Utility Board. Comments are limited to 4 minutes, total comment period limited to 15 minutes. Any speakers not having the opportunity to be heard will be the first to present at the next Board meeting.)*

President Morgan opened the meeting for public comment. Two people came forward to speak. Micah Johnson, of Rochester, spoke on smart grids, solar, time-of-use rates and demand response, and referenced the 2015 RPU customer survey which indicated that 82 percent of residential customers and 60% of commercial customers were in favor of smart grid meters. General Manager Mark Kotschevar stated that RPU does have time-of-use rates for commercial customers but has found that those customers have not changed their usage times. He also pointed out that SMMPA's community solar program did not meet its 25 percent sales target due to lack of residential customer participation.

James Rentz, of Rochester, thanked the Board for thinking about the rates and voting on them.

## 5. Regular Agenda

1. Macro Site Lease

*Buyer Mona Hoeft presented a request to the Board to approve a Macro Site Lease agreement for telecommunications installations on RPU water storage tanks. The lease agreement will be used as a template to allow staff to execute agreements for these installations without the need to come to the Board for approval for each installation individually. The agreement allows the RPU General Manager, in consultation with the Rochester City Attorney, to approve non-material changes, future amendments or subsequent agreements that are consistent with the master agreement. RPU currently manages macro site leases on 15 sites with 6 carriers, resulting in a total of 29 leases. The initial term of the agreement is five years.*

Board Member Michael Wojcik asked if City Attorney Jason Loos has reviewed and approved the lease agreement, to which Mr. Loos replied that he has.

Board Member Mark Browning noted dates found in language of the agreement and asked if it is a carry-over of the template. Ms. Hoeft replied it is.

President Morgan asked typically how long the process takes to get Board approvals back to the customer. Ms. Hoeft stated that sometimes waiting until the next Board meeting can be detrimental to the customer. Mr. Morgan asked if the installations are a proliferation of water towers. The City of Rochester zoning department actually has a collocation requirement that cell telecommunications installations be placed on water towers, said Mr. Kotschevar. Mr. Morgan inquired as to how much revenue is generated from the leases. Mr. Kotschevar replied that about \$600,000 per year is generated.

Resolution: Macro Site Lease

*BE IT RESOLVED* by the Public Utility Board of the City of Rochester, Minnesota, to approve the agreement for:

*Macro Site Lease*

*And to approve a resolution authorizing the Mayor and City Clerk to execute the agreements, and authorize the General Manager, after consulting with the City Attorney, to approve future amendments or subsequent agreements resulting in non-material changes consistent with the Lease agreement.*

*Passed by the Public Utility Board of the City of Rochester, Minnesota, this 27th day of November, 2018.*

<b>RESULT:</b>	<b>COUNCIL APPROVAL [UNANIMOUS]</b>
<b>MOVER:</b>	Melissa Graner Johnson, Board Vice President
<b>SECONDER:</b>	Michael Wojcik, Board Member
<b>AYES:</b>	Browning, Haskin, Johnson, Morgan, Wojcik

2. Master Small Cell Wireless Collocation Agreement

*A master agreement between the City of Rochester, RPU and small cell wireless providers was presented to the Board for approval by Buyer Mona Hoeft. The agreement allows for a standard form to be used for all small cell installations on RPU poles by communication service providers. Terms and conditions are provided in the master agreement, which includes a separate license supplement with site specific information such as location, construction drawings and equipment. The fee structure in the agreement consists of a one-time installation fee of \$5,000, a supplement license fee of \$1,550 per premise, and rent of \$900 per year per premise. The agreement allows the RPU General Manager, in consultation with the Rochester City Attorney, to approve non-material changes, future amendments or subsequent agreements that are consistent with the master agreement. City Attorney Jason Loos has participated in the negotiations and has reviewed the agreement. The term of the each agreement will be based on negotiations with each individual carrier.*

*President Morgan asked if RPU owns the light poles to which the small cells are attached. General Manager Mark Kotschevar replied that RPU owns the asset, but Rochester Public Works designs the spec.*

Resolution: Master Small Cell Wireless Collocation Agreement

*BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve the agreement with:*

*Master Small Cell Wireless Collocation and License Supplement*

*And approve a resolution authorizing the Mayor and City Clerk to execute the agreements, and authorize the General Manager, after consulting with the City Attorney, to approve future amendments or subsequent agreements in non-material changes consistent with the master agreement.*

*Passed by the Public Utility Board of the City of Rochester, Minnesota, this 27th day of November, 2018.*

<b>RESULT:</b>	<b>COUNCIL APPROVAL [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Wojcik, Board Member
<b>SECONDER:</b>	Melissa Graner Johnson, Board Vice President
<b>AYES:</b>	Browning, Haskin, Johnson, Morgan, Wojcik

## 6. Board Liaison Reports

General Manager Mark Kotschevar stated that the Board Expenses and Board Member Attendance at Conferences and Meeting policies will soon be brought to the Board for review. Both policies are being revised to conform with the City of Rochester's travel policy.

## 7. General Managers Report

General Manager Mark Kotschevar reported that the use of credit card point cards for utility bill payments has been on the rise, and is currently costing RPU \$25,000 monthly, or \$300,000 annually. This is because the credit card companies impose fees on RPU for use of the cards. This has primarily been an issue among RPU's commercial customers. RPU is proposing to place a \$2,000 per transaction limit on point cards, with no limit on the number of times the card can be used. RPU will be sending a letter explaining the new policy to all commercial customers, with an effective date of January 1, 2019.

President Morgan said he supports staff going down this road in light of the fees.

Director of Corporate Services Peter Hogan provided a status update on the implementation of RPU's new customer care software system, Cayenta, to the Board. The planned implementation of the system is slated for May 2019, with a proposed go-live date of May 14.

Mr. Kotschevar shared that Director of Power Resources Jeremy Sutton was in Chicago accepting an award on behalf of RPU for the Westside Energy Station, for the ENR midwest regional project in the energy industrial category. He reported that Westside Energy Station is currently at 20 percent capacity factor, and he thanked the power resources and maintenance teams for keeping it running. Board Member Mark Browning referred to the utility's wholesale electric revenue in the RPU statement of revenue for October 2018, and noted the revenue that is generated from Westside Energy.

Vice President Johnson took a moment to commend RPU staff for raising \$20,400 in pledges for the United Way through fundraising activities. Business Services Manager Deb Donahue has the lead role in RPU's United Way campaign and coordinates the fundraising efforts, said Mr. Kotschevar.

## 8. Division Reports & Metrics

Board members discussed that assignments on the Board committees will be updated when the new Board member joins the Board in January 2019.

President Morgan asked if staff can provide a timeline for providing more information to the Board on time-of-use rates. Mr. Kotschevar said this involves two things, a timeline on the discussion of a different rate structure, and also a timeline for when the new rate structure is implemented. President Morgan asked for a monthly update. In previous discussions, the Board indicated interest in two rate designs: inclining block customer charge rate and time-of-use rate, said Mr. Kotschevar. He asked if the Board prefers to wait until the new Board member is on board to further those discussions. Board Member Michael Wojcik also asked if specific rates for multi-family housing will be looked at. He also pointed out that January 2019 is fast approaching, and asked if the Board can see a template by the December meeting. Mr. Kotschevar said staff will provide a timeline at the December meeting. Noting that a customer survey has not been conducted since 2015, President Morgan asked when another one can be done. RPU conducts quarterly customer surveys focused on customer satisfaction, however the 2015 survey was more comprehensive, noted Mr. Kotschevar. Director of Customer Relations Krista Boston is interested in developing a focused customer survey, he said. Board Member Mark Browning suggested that the survey should perhaps focus on rate structure. Board Member Tim Haskin pointed out that the City of Rochester has dramatically changed in the last four years in terms of population and housing, and new survey data would be beneficial. President Morgan recommended that staff provide a proposal to conduct a survey at the December Board meeting.

Mr. Kotschevar reported that resolutions for RPU's 2019 electric and water rates and budget have been submitted to the Rochester City Council for approval at their December 3, 2018 meeting.

Mr. Browning took a moment to remind everyone that RPU is varying from its previous path and plan for rate structure in order to get costs adjusted, and the impact to customer usage is very minimal. The Board has a vision, and will need to determine what the next path will be, he said.

## 9. Other Business

## 10. Adjourn

*The agenda and board packet for Utility Board meetings are available on-line at [www.rpu.org](http://www.rpu.org) and <http://rochestercitymn.igmp2.com/Citizens/Default.aspx>*

Submitted by:

\_\_\_\_\_  
Secretary

Approved by the Board

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Minutes Acceptance: Minutes of Nov 27, 2018 4:00 PM (Approval of Minutes)

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**Regular Meeting****Tuesday, November 27, 2018****4:00 PM**

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Board President

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Date**Minutes Acceptance: Minutes of Nov 27, 2018 4:00 PM (Approval of Minutes)**



## ACCOUNTS PAYABLE

Meeting Date: 12/18/2018

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**SUBJECT: a/p board listing**

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**PREPARED BY: Terri Engle**

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Please approve

**ROCHESTER PUBLIC UTILITIES**  
**A/P Board Listing By Dollar Range**  
For 11/09/2018 To 12/09/2018  
**Consolidated & Summarized Below 1,000**

**Greater than 50,000 :**

SOUTHERN MN MUNICIPAL POWER A	November SMMPA Invoice	7,179,868.08
MN DEPT OF REVENUE	October Sales and Use Tax	645,009.72
KNUTSON CONSTRUCTION SERVICES	Service Center Expansion Labor	311,080.00
M.K. PAINTING INC	Bandel Reservoir #90 Re-paint	239,590.00
KNUTSON CONSTRUCTION SERVICES	Service Center Expansion Materials	214,760.00
CONSTELLATION NEWENERGY-GAS D	October Gas for Cascade Creek	209,930.78
CONSTELLATION NEWENERGY-GAS D	October Gas for WES	203,795.44
HAYDEN - MURPHY EQUIPMENT CO	Manitou Rough Terrain Forklift	162,049.22
LEAGUE OF MN CITIES INS TRUST	General Liability Insurance 11/1/18-11/1	113,699.00
MASTEC NORTH AMERICA INC	Manhole Rebuild~	94,319.18
WESTSIDE ENERGY PARTNERS	Release of Contract Retention for WES	83,649.01
A & A ELECT & UNDERGROUND CON	Directional Boring and Related Services	80,806.25
WESTSIDE ENERGY PARTNERS	Westside Energy Station EPC	55,800.31
WCG CONSULTING GROUP	RPU Implementaton & PM Asst for Cayenta	54,908.63

**Price Range Total:**

9,649,265.62

**5,000 to 50,000 :**

SCHWEITZER ENGINEERING LAB IN	SEL-351S Protection System for Cascade	41,650.06
BILLTRUST dba	16-18 CC/Billing/Mailing/IVR Services	41,562.06
CONSTELLATION NEWENERGY-GAS D	October Gas for SLP	32,939.26
U S ALLIANCE GROUP	November Credit Card Processing Fees	32,500.69
PEOPLES ENERGY COOPERATIVE (P	November Compensable	32,105.93
KOHL'S INC	CIP Conserve & Save Rebates-Lighting	30,108.00
EPLUS TECHNOLOGY INC	Catalyst 3850 48 Port Date IP Base	26,783.51
FRANKLIN ENERGY SERVICES LLC	2018 DSM / CIP Services	25,578.76
WRIGHT TREE SERVICE INC	2018 Hourly Tree Trimming~	24,942.37
THE ENERGY AUTHORITY INC	Resource Mgmt fee	22,076.26
RESCO	36-SL Pole, 25', Residential, 21' Mtg Ht	21,975.00
FITCH INC	Coverage 12/1/18-11/30/19	20,000.00
MINNESOTA ENERGY RESOURCES CO	October Natural Gas for WES	19,668.34
NORTH AMERICAN SWITCHGEAR INC	1-Vacuum breaker type 15VCP500, 2000A	17,500.00
ALL SYSTEMS INSTALLATION dba	IP Speaker Upgrade	17,187.50
FORBROOK LANDSCAPING SERVICES	2018 Landscaping Svcs (Electric)	16,725.00
CASEY'S GENERAL STORE	CIP Conserve & Save Rebates-Lighting & Cooling equip	14,856.00
RESCO	1-Switch, PM, Air, 3ph, 3-600SW/1-200F,PSE	14,128.00
GRAYBAR ELECTRIC COMPANY INC	11-SL Pole, 30' 3" Mtg Ht, 6' Arm, Galv	14,089.90
VISION COMPANIES LLC (P)	Org Strategy	13,725.00
COMPUTER TASK GROUP INC	Project Coordinator for Cayenta Project	13,680.00
LEAGUE OF MN CITIES INS TRUST	General Liability Insurance 11/1/18-11/1	13,481.00
BEST BUY	CIP Conserve & Save Rebates-Lighting	12,962.00
NORTH AMERICAN SWITCHGEAR INC	1-Vacuum breaker type 15VHK500, 2000A	12,800.00
WATER TOWER CLEAN & COAT INC	Exterior pressure washing of water stora	12,800.00
CHS ROCHESTER	October Fuel	12,787.21
RESCO	1-Switch, PM, Air, 3PH, 2-600SW/2-200F PSE	12,566.00
USIC LOCATING SERVICES INC	October Locating Services	12,496.70
CPMI INC	service center project	12,270.00
RESCO	4,000 ft-Cable in Conduit AL 600V 4/0-2/0 Tri Urd	11,226.15
CHS ROCHESTER	November Fuel	11,161.91
BROWN C O INS AGENCY INC	2018/2019 Agency Fee	11,000.00
DOYLE CONNER CO INC (P)	Concrete street repair due to water main	11,000.00
NORTH AMERICAN SWITCHGEAR INC	1-Vacuum breaker type 15VHK500, 1200A	10,800.00
BAKER TILLY VIRCHOW KRAUSE LL	2018-2020 Audit Fees	10,062.50
MARSDEN BLDG MAINT LLC dba	Bldg Cleaning	10,022.18

Attachment: AP Board CrMo (9954 : a/p board listing)

# **ROCHESTER PUBLIC UTILITIES**

## **A/P Board Listing By Dollar Range**

For 11/09/2018 To 12/09/2018

**Consolidated & Summarized Below 1,000**

58	MASTEC NORTH AMERICA INC	MH #80 Lid Work	9,100.00
59	MIDCONTINENT ISO INC	November MISO Invoice	8,900.74
60	WELLS FARGO BANK ACCT ANALYSI	2018 Banking Services	8,867.78
61	NEW ERA DEVELOPMENT THREE, LL	CIP Conserve & Save Rebates-lighting	8,693.00
62	NORTH AMERICAN SWITCHGEAR INC	1-Vacuum breaker type 150VCP500, 1200A	8,500.00
63	HDR ENGINEERING INC	Switghgear Evaluation Phase 1	8,006.80
64	THE ENERGY AUTHORITY INC	Sales	7,740.00
65	TOWNSQUARE MEDIA	CIP Conserve & Save Rebates-lighting	7,675.00
66	IPSWITCH INC	2018-21 WhatsUp Gold Prem Svc Agmt	7,579.68
67	FORBROOK LANDSCAPING SERVICES	2018 Landscaping Svcs (Water)	7,425.00
68	CRESCENT ELECTRIC SUPPLY CO	2-Closed-face crimper kit	7,350.00
69	FORBROOK LANDSCAPING SERVICES	Service Center landscaping	7,346.00
70	HDR ENGINEERING INC	Water Main Analysisfor watermain replacement	7,112.85
71	ELEVATE MARKETING SOLUTIONS L	Ads	7,000.00
72	EPLUS TECHNOLOGY INC	Catalyst 3850 4 X 10GE Network Module	6,915.60
73	CHS ROCHESTER	October Fuel	6,906.11
74	AUTUMN HEIGHTS OF ROCHESTER	CIP Conserve & Save Rebates-refrig & led bulbs	6,660.00
75	NALCO COMPANY	18-DI Vessels, Anion, CC	6,444.56
76	OVERHEAD DOOR CO OF OLM CO DB	Hydro Garage Door Replacement	6,412.50
77	PLUMBERS AND PIPEFITTERS LOCA	CIP Conserve & Save Rebates-lighting	6,356.47
78	WARTSILA NORTH AMERICA	Fan blade for WES	6,274.40
79	DOBLE ENGINEERING COMPANY	M4100 Insulation Analyzer Rent/Support	6,194.82
80	WARTSILA NORTH AMERICA	Motor for WES	6,060.50
81	JENNINGS, STROUSS & SALMON PL	Legal Fees for FERC Filing fees	6,005.50
82	STUART C IRBY CO INC	4-Trans, PM, 1ph, 37.5kVA,13.8/8,240/120	5,680.00
83	EXPRESS SERVICES INC	2018 Temp Staff Finance/Purchasing	5,531.50
84	ALL SYSTEMS INSTALLATION dba	Parking Machine Fiber Repair	5,398.00
85	BORDER STATES ELECTRIC SUPPLY	30-CT Bar Type 600/5 RITZ	5,349.30
86	S L CONTRACTING INC	Floor replacement after break repair	5,328.00
87	UNITED RENTALS INC	CCS T1 Bus Duct Replacement	5,281.93
88	BORDER STATES ELECTRIC SUPPLY	120-Meter, FM2S CL200 240V AMR	5,219.78
89	BARR ENGINEERING COMPANY (P)	Hydro Isolation Gate Redesign	5,120.00
90	PITNEY BOWES 10041747 RESERVE	PB Reserve Prepay Postage	5,000.00
91			
92		<b>Price Range Total:</b>	894,653.11
93			
94	<b><u>1,000 to 5,000 :</u></b>		
95			
96	WARTSILA NORTH AMERICA	Eccentric screw pump 350 l for WES	4,971.41
97	THE BOLDT CO	Concrete pad installation for GT-2	4,900.00
98	OFFICE MAX INC	CIP Conserve & Save Rebates-lighting	4,658.50
99	PATEL MAYUR	CIP Conserve & Save Rebates-renewables	4,550.00
100	NOVASPECT INC	Repair of DeltaV Controls at SLP Water T	4,531.12
101	ULTEIG ENGINEERS INC	Cascade Creek Sub Transformer Replace	4,515.00
102	EPLUS TECHNOLOGY INC	Wireless access point	4,505.90
103	DEGNIM JIM	CIP Conserve & Save Rebates-renewables	4,500.00
104	CREDIT MANAGEMENT LP	2018 Collections/Delinquent Services	4,452.50
105	AIR CLEANING SPECIALISTS INC	Motorized hose reel	4,450.80
106	CLAREY'S SAFETY EQUIPMENT dba	Hoist system, 5-piece	4,450.00
107	STANTEC CONSULTING SERVICES I	Street Light Design Guide	4,399.00
108	EXPRESS SERVICES INC	2018 Seasonal staff facilities	4,371.11
109	STREBBING DAVE	CIP Conserve & Save Rebates-renewables	4,320.00
110	WARTSILA NORTH AMERICA	Postage And Shipping	4,316.21
111	SHOPKO STORES INC #35	CIP Conserve & Save Rebates-cooling	4,315.26
112	BARR ENGINEERING COMPANY (P)	2018 Lake Zumbro Dam Inspection & Servic	4,301.86
113	SOUTHERN MN MUNICIPAL POWER A	Reimbursement to SMMPA-Installation of Solararray	4,181.82
114	CRESCENT ELECTRIC SUPPLY CO	2-In-line cable cutter kit	4,165.00

Attachment: AP Board CrMo (9954 : a/p board listing)

**ROCHESTER PUBLIC UTILITIES**  
**A/P Board Listing By Dollar Range**  
For 11/09/2018 To 12/09/2018  
**Consolidated & Summarized Below 1,000**

115	TECHNIBUS INC	Release Retainage 45-55536 Technibus	4,074.60
116	CENTRAL LUTHERAN SCHOOL	CIP Conserve & Save Rebates-lighting	4,067.00
117	CHS ROCHESTER	November Fuel	4,018.12
118	ELITE CARD PAYMENT CENTER	Ice Maker service center	3,954.38
119	MORGAN BRIAN	CIP Conserve & Save Rebates-renewables	3,900.00
120	BADGER METER INC (P)	10-Meter, Bare 1-1/2" Badger Disc	3,855.09
121	7TH STREET TILE PARTNERS LLC	CIP Conserve & Save Rebates-cooling equipment	3,800.00
122	KNXR - FM	Ads	3,800.00
123	INSTITUTE FOR ENVIRONMENTAL	Asbestos Training	3,797.54
124	TWIN CITY SECURITY INC	2018 Security Services	3,710.95
125	NEENAH FOUNDRY COMPANY	3-Manhole Cover w/Ring, 38.0"	3,658.33
126	WALMART NORTH	CIP Conserve & Save Rebates-custom	3,514.22
127	IHEART MEDIA dba	Public Power Week	3,503.00
128	SHARP RANDY	CIP Conserve & Save Rebates-renewables	3,500.00
129	CHARGEPOINT INC.	2018-20 Software & Main Car Chrg Station	3,401.61
130	ASI SIGNAGE INNOVATIONS dba	Sign, 48" x 60" for WES	3,324.95
131	EPLUS TECHNOLOGY INC	IP phone 8845	3,248.80
132	CRESCENT ELECTRIC SUPPLY CO	1-Open-face crimper kit	3,185.00
133	ALTERNATIVE TECHNOLOGIES INC	oil samples	3,145.00
134	LICENSE CENTER ROCHESTER INC	License Fees & Sales Tax for V620	3,079.70
135	NEENAH FOUNDRY COMPANY	3-Manhole Cover w/Ring, 32.0" x 6.0" Deep	3,033.11
136	ULTEIG ENGINEERS INC	Clearance Ck to traffic signal	3,000.00
137	BORDER STATES ELECTRIC SUPPLY	120-Elbow, 15kV, 200A, LB, 1/0 Sol, 175-220Mll	2,886.00
138	WESCO DISTRIBUTION INC	30-Bracket, Equip Mtg, 3ph, 48", 6 Mtgs	2,697.00
139	BOWMANS SAFE & LOCK SHOP LTD	parts	2,687.91
140	BORDER STATES ELECTRIC SUPPLY	15-CT Bar Type 600/5 RITZ	2,674.65
141	ALTEC INDUSTRIES INC	repair bucket	2,637.93
142	HI LINE UTILITY SUPPLY CO (P)	10-Pull Tape, Printed, .750" x 3000'	2,588.30
143	SAHIBA HOSPITALITY GROUP LLC	CIP Conserve & Save Rebates-cooling equipment	2,587.28
144	ADVANCED DISPOSAL SVC SOLID W	2018 Waste removal SC	2,573.07
145	VIKING ELECTRIC SUPPLY INC	1,760 ft-Conduit, PVC Sch 40, 3.00	2,521.38
146	MINNESOTA ENERGY RESOURCES CO	October Natural Gas CC	2,466.45
147	CONSOLIDATED COMMUNICATIONS d	18-20 Network and Collocation Services	2,461.26
148	NETWORKFLEET INC	2018 Monthly Charge - GPS Fleet Tracking	2,416.70
149	MINNESOTA ENERGY RESOURCES CO	Gas for SC	2,231.88
150	ASI SIGNAGE INNOVATIONS dba	Sign, 24" x 36" for WES	2,231.85
151	ASSEMBLY OF GOD CHURCH	CIP Conserve & Save Rebates-lighting	2,226.00
152	ADVANTAGE DIST LLC (P)	lubricants / DL	2,199.38
153	JOHNSON PRINTING CO INC	Print 2019 Calendar	2,196.28
154	STUART C IRBY CO INC	6-Metal Sec. Encl, 1ph, 30" x 30" x 18"	2,190.00
155	ULTEIG ENGINEERS INC	2017-2018 Engineering Svcs	2,155.00
156	NALCO COMPANY	6-DI Vessels, Mixed Bed, CC	2,148.19
157	NALCO COMPANY	6-DI Vessels, Cation, CC	2,148.19
158	WESCO DISTRIBUTION INC	12-CT, XL Window 2000/5 600V High Accuracy	2,114.84
159	GDS ASSOCIATES INC	MISO Attch O Consulting Service	1,946.88
160	VIKING ELECTRIC SUPPLY INC	2,800 ft-Conduit, PVC Sch 40, 2.00, 20' LENGTH	1,912.68
161	CITY OF ROCHESTER	Springsted Assoc-Arbitage Calc	1,900.00
162	MINNESOTA ENERGY RESOURCES CO	October 2018 Natural Gas	1,892.38
163	GRAYBAR ELECTRIC COMPANY INC	500 ft-Conduit, Flexible, Corrugated PVC, 3.00	1,891.35
164	ELECTRIC PUMP INC (P)	Variable frequency drive, 15HP	1,851.00
165	TEXPAR ENERGY INC	Customer Refunds 3*526755 adj for kwh	1,774.20
166	CRESCENT ELECTRIC SUPPLY CO	12 rolls-Heat Shrink Insul. Tape, 15kV, 2" x 25'	1,747.02
167	NALCO COMPANY	55 gal-Sur-Gard 1700 Oxygen Scavenger DEMIN/SLP	1,673.00
168	K T T C TV INC	Public Power Week Playday	1,650.00
169	CLAREY'S SAFETY EQUIPMENT dba	Galvanized cable and mount, 60'	1,610.00
170	ROCHESTER PUBLIC SCHOOLS	CIP Conserve & Save Rebates-lighting	1,593.00
171	CENTURYLINK	2018 Monthly Telecommunications	1,588.48

Attachment: AP Board CrMo (9954 : a/p board listing)

**ROCHESTER PUBLIC UTILITIES**  
**A/P Board Listing By Dollar Range**  
For 11/09/2018 To 12/09/2018  
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172	VIKING ELECTRIC SUPPLY INC	materials for BVS AC upgrade / PAM	1,579.42
173	STUART C IRBY CO INC	24-Pedestal Dome Cover, Box Style	1,560.00
174	ZOHO CORPORATION	ManageEngine Firewall Analyzer Sub-3yrs	1,522.97
175	ULINE	Barricades for Westside	1,491.97
176	BOLTON AND MENK (P)	AT&T SE Tower Antenna Modification~	1,485.00
177	STEVE BENNING ELECTRIC	Installation of new piping & wiring for mixing motor	1,440.00
178	STUART C IRBY CO INC	24-Pedestal Base, Secondary, w/o Cover	1,440.00
179	WESCO DISTRIBUTION INC	4-Ground thaw blanket, 3' x 4'	1,437.20
180	VIKING ELECTRIC SUPPLY INC	10-Elbow, Steel, 36.0 R, 4.00	1,393.20
181	WSB & ASSOCIATES	Prof Services creation of necessary easements	1,344.00
182	SUNBELT RENTALS	Lift rental at Westside	1,307.13
183	STUART C IRBY CO INC	20-Pedestal Dome Cover, Box Style	1,300.00
184	BOWMANS SAFE & LOCK SHOP LTD	door and locks for Standard oil building	1,296.42
185	CITY OF ROCHESTER	W/C Fees October 2018	1,282.00
186	ELITE CARD PAYMENT CENTER	Travel, Wartsilla, ALuhman & JPettis, Lo	1,281.92
187	OLDCASTLE PRECAST INC (P)	20-Manhole Spacer Ring, 37" x 2" Cement	1,274.16
188	MISSISSIPPI WELDERS SUPPLY CO	block repair	1,252.58
189	BARRY SCREEN PRINT CO dba	Room Number Placard	1,218.38
190	ELECTRIC PUMP INC (P)	Wall Mountable Enclosure	1,215.00
191	OTTER TAIL POWER OFFICES INC	2018 NERC Training Tom Keller	1,200.00
192	ROCHESTER ARMORED CAR CO INC	2018 Pick Up Services	1,187.24
193	MISSISSIPPI WELDERS SUPPLY CO	compressed gases / MH	1,178.25
194	BADGER METER INC (P)	Measuring Chamber, 6" Turbo T-2000	1,162.70
195	NARDINI FIRE EQUIPMENT CO INC	fire prevention sys insp - Cascade Creek	1,159.00
196	CORE & MAIN LP (P)	WB67 # 31 Valve Seat	1,155.00
197	INFINITY REAL ESTATE LLC	CIP Conserve & Save Rebates-lighting	1,152.00
198	K A A L TV LLC	Ads	1,120.00
199	WSB & ASSOCIATES	Utility Easement	1,100.00
200	VIKING ELECTRIC SUPPLY INC	Postage And Shipping	1,028.33
201	G A ERNST & ASSOCIATES INC	Energy Audits	1,003.00
202			
203		<b>Price Range Total:</b>	278,063.29
204			
205	<b><u>0 to 1,000 :</u></b>		
206			
207	EXPRESS SERVICES INC	Summarized transactions: 24	18,534.40
208	REBATES	Summarized transactions: 75	16,538.88
209	ELITE CARD PAYMENT CENTER	Summarized transactions: 61	11,620.04
210	Customer Refunds (CIS)	Summarized transactions: 83	6,221.08
211	CINTAS CORP	Summarized transactions: 30	4,917.70
212	STUART C IRBY CO INC	Summarized transactions: 19	4,417.46
213	CRESCENT ELECTRIC SUPPLY CO	Summarized transactions: 37	4,335.43
214	CORE & MAIN LP (P)	Summarized transactions: 17	4,285.73
215	U S A SAFETY SUPPLY	Summarized transactions: 19	3,990.02
216	GRAYBAR ELECTRIC COMPANY INC	Summarized transactions: 14	3,324.51
217	ZEE MEDICAL SERVICE INC (P)	Summarized transactions: 8	2,993.53
218	AMARIL UNIFORM COMPANY	Summarized transactions: 32	2,603.32
219	ASI SIGNAGE INNOVATIONS dba	Summarized transactions: 8	2,370.76
220	POMPS TIRE SERVICE INC	Summarized transactions: 4	2,056.27
221	INNOVATIVE OFFICE SOLUTIONS L	Summarized transactions: 21	2,024.65
222	BORDER STATES ELECTRIC SUPPLY	Summarized transactions: 9	2,010.30
223	STORAGE BATTERY SYSTEMS	Summarized transactions: 17	1,945.98
224	BOLTON AND MENK (P)	Summarized transactions: 5	1,881.50
225	WESCO DISTRIBUTION INC	Summarized transactions: 7	1,862.08
226	EPLUS TECHNOLOGY INC	Summarized transactions: 9	1,844.93
227	FORBROOK LANDSCAPING SERVICES	Summarized transactions: 2	1,762.00
228	MINNESOTA ENERGY RESOURCES CO	Summarized transactions: 3	1,606.32

Attachment: AP Board CrMo (9954 : a/p board listing)



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For 11/09/2018 To 12/09/2018  
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229	MN SUPPLY COMPANY INC (P)	Summarized transactions: 4	1,593.39
230	A & A ELECT & UNDERGROUND CON	Summarized transactions: 2	1,565.50
231	LAWSON PRODUCTS INC (P)	Summarized transactions: 13	1,520.59
232	SUNBELT RENTALS	Summarized transactions: 2	1,505.26
233	STEVE BENNING ELECTRIC	Summarized transactions: 3	1,504.43
234	MCMASTER CARR SUPPLY COMPANY	Summarized transactions: 48	1,488.87
235	FASTENAL COMPANY	Summarized transactions: 22	1,426.36
236	CORE & MAIN LP (P)	Summarized transactions: 7	1,342.99
237	GARCIA GRAPHICS INC	Summarized transactions: 7	1,248.10
238	VIKING ELECTRIC SUPPLY INC	Summarized transactions: 16	1,219.75
239	HALO BRANDED SOLUTIONS	Summarized transactions: 4	1,203.07
240	GEISLINGER & SONS INC	Summarized transactions: 2	1,152.00
241	MISSISSIPPI WELDERS SUPPLY CO	Summarized transactions: 7	1,151.45
242	FORSTNER JAY	Summarized transactions: 4	1,132.54
243	RESCO	Summarized transactions: 2	1,130.40
244	KLUG JERROD	Summarized transactions: 4	1,128.17
245	KNXR - FM	Summarized transactions: 3	1,100.00
246	ULINE	Summarized transactions: 2	1,044.35
247	GLOBAL EQUIPMENT COMPANY	Summarized transactions: 3	1,017.71
248	NORTH AMERICAN SWITCHGEAR INC	Summarized transactions: 2	990.54
249	GOPHER STATE ONE CALL	Summarized transactions: 1	983.48
250	GOPHER STATE ONE CALL	Summarized transactions: 1	983.47
251	KELLER TOM A JR	Summarized transactions: 3	968.74
252	SPECTRUM REACH	Summarized transactions: 4	923.00
253	KYLLO TODD	Summarized transactions: 6	920.39
254	TECHNOLOGY FOR ENERGY CORPORA	Summarized transactions: 3	909.89
255	BENSON ANTHONY	Summarized transactions: 3	906.87
256	AUTHORIZE.NET	Summarized transactions: 1	889.30
257	ELITE CARD PAYMENT CENTER	Summarized transactions: 2	875.84
258	ROCH SAND & GRAVEL INC	Summarized transactions: 1	870.75
259	IDEAL SERVICE COMPANY INC	Summarized transactions: 1	860.00
260	EDWARD T CREAGAN MD	Summarized transactions: 1	850.00
261	CENTURYLINK	Summarized transactions: 3	834.86
262	VIKING AUTOMATIC SPRINKLER IN	Summarized transactions: 1	812.00
263	HACH COMPANY	Summarized transactions: 4	787.00
264	VEIT DISPOSAL SYSTEMS INC	Summarized transactions: 1	782.23
265	MACQUEEN EQUIPMENT	Summarized transactions: 2	758.98
266	TWIN CITY SECURITY INC	Summarized transactions: 1	756.90
267	BOWMANS SAFE & LOCK SHOP LTD	Summarized transactions: 4	753.00
268	ADVANCE AUTO PARTS	Summarized transactions: 15	733.28
269	MODEM EXPRESS INC	Summarized transactions: 2	720.00
270	BARRY SCREEN PRINT CO dba	Summarized transactions: 9	668.21
271	POWER DELIVERY PROGRAM INC	Summarized transactions: 1	666.00
272	WARTSILA NORTH AMERICA	Summarized transactions: 1	645.72
273	ROCH PLUMBING & HEATING CO IN	Summarized transactions: 2	622.01
274	JOHNSON PRINTING CO INC	Summarized transactions: 2	618.28
275	SCHUMACHER ELEVATOR COMPANY	Summarized transactions: 1	618.00
276	MN MUNICIPAL UTILITIES ASSN C	Summarized transactions: 1	600.00
277	WSB & ASSOCIATES	Summarized transactions: 1	587.50
278	CLAREY'S SAFETY EQUIPMENT dba	Summarized transactions: 6	560.91
279	TONNA MECHANICAL INC	Summarized transactions: 1	550.00
280	SOUTHERN MINNESOTA INSULATION	Summarized transactions: 2	547.95
281	SUPERIOR COMPANIES OF MINNESO	Summarized transactions: 3	546.00
282	CINTAS CORP	Summarized transactions: 3	545.79
283	BOEGE INSULATION INC	Summarized transactions: 1	545.40
284	CLEMENTS CHEVROLET CADILLAC S	Summarized transactions: 5	545.37
285	REINDERS INC	Summarized transactions: 1	544.11

Attachment: AP Board CrMo (9954 : a/p board listing)

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286	ADVANTAGE DIST LLC (P)	Summarized transactions: 2	540.22
287	JOHNSON PRINTING CO INC	Summarized transactions: 1	539.18
288	ADVANCED DISPOSAL SVC SOLID W	Summarized transactions: 2	536.56
289	TEAMVIEWER GMBH	Summarized transactions: 1	534.16
290	FIRST CLASS PLUMBING & HEATIN	Summarized transactions: 2	530.18
291	AIR CLEANING SPECIALISTS INC	Summarized transactions: 11	529.99
292	G A ERNST & ASSOCIATES INC	Summarized transactions: 2	520.48
293	OLSEN CHAIN & CABLE CO INC	Summarized transactions: 3	511.40
294	JOHN HENRY FOSTER MN INC (P)	Summarized transactions: 2	506.50
295	NU-TELECOM dba	Summarized transactions: 1	500.45
296	GATEWAY	Summarized transactions: 1	500.00
297	COOK STEVEN J	Summarized transactions: 4	498.67
298	ULINE	Summarized transactions: 6	494.43
299	JENNINGS, STROUSS & SALMON PL	Summarized transactions: 1	489.50
300	AIRGAS SAFETY INC (P)	Summarized transactions: 2	481.75
301	GRAINGER INC	Summarized transactions: 6	472.97
302	SOMA CONSTRUCTION INC	Summarized transactions: 2	472.22
303	LIEBENOW ANN	Summarized transactions: 2	459.10
304	NEENAH FOUNDRY COMPANY	Summarized transactions: 1	445.49
305	AIRCRAFT DYNAMICS CORP	Summarized transactions: 3	445.43
306	WERNER ELECTRIC SUPPLY	Summarized transactions: 14	431.73
307	KAUTZ TRAILER SALES dba	Summarized transactions: 2	427.88
308	BIERBAUM DIRK	Summarized transactions: 2	415.70
309	HEPPELMANN MIKE	Summarized transactions: 1	415.00
310	ARNOLDS SUPPLY & KLEENIT CO (	Summarized transactions: 2	410.41
311	ALL SEASONS POWER & SPORT INC	Summarized transactions: 1	402.02
312	OLDCASTLE PRECAST INC (P)	Summarized transactions: 1	400.93
313	HANSON PATRICIA S	Summarized transactions: 2	399.00
314	NAPA AUTO PARTS (P)	Summarized transactions: 6	392.96
315	HAWKINS INC	Summarized transactions: 7	379.91
316	THE ENERGY AUTHORITY INC	Summarized transactions: 1	379.81
317	PEOPLES ENERGY COOPERATIVE	Summarized transactions: 3	375.59
318	FAST PHONE REPAIR LLC	Summarized transactions: 1	375.00
319	MN GROUND WATER ASSOC	Summarized transactions: 1	375.00
320	CITY OF ROCHESTER	Summarized transactions: 7	366.29
321	QUALITY OVERHEAD DOOR INC	Summarized transactions: 1	360.00
322	INTERSTATE MOTOR TRUCKS INC	Summarized transactions: 1	358.62
323	LICENSE CENTER ROCHESTER INC	Summarized transactions: 1	357.33
324	NOVASPECT INC	Summarized transactions: 3	355.08
325	NETWORK SERVICES COMPANY	Summarized transactions: 2	351.27
326	DAKOTA SUPPLY GROUP	Summarized transactions: 3	348.79
327	HY VEE	Summarized transactions: 4	336.38
328	CHOSEN VALLEY TESTING	Summarized transactions: 1	334.00
329	CORPORATE WEB SERVICES INC	Summarized transactions: 2	329.85
330	POWERS VENTURES LLC	Summarized transactions: 1	327.64
331	NORTHERN / BLUETARP FINANCIAL	Summarized transactions: 3	317.38
332	THRONDSOIL OIL & LP GAS CO	Summarized transactions: 3	316.87
333	CHEMSEARCH	Summarized transactions: 2	314.07
334	BOSTON KRISTA	Summarized transactions: 3	311.50
335	COMMUNITY EDUCATION	Summarized transactions: 1	300.00
336	MINNESOTA CHILDRENS MUSEUM	Summarized transactions: 1	300.00
337	BADGER METER INC (P)	Summarized transactions: 7	293.73
338	OSWEILER TODD	Summarized transactions: 3	290.58
339	FLEISCHAKER SVEN	Summarized transactions: 2	288.88
340	ANDERTON RANDY	Summarized transactions: 3	281.63
341	PENTEK CHARLES	Summarized transactions: 2	276.50
342	FRONTIER	Summarized transactions: 1	259.32

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343	SUPERIOR COMPANIES OF MINNESO	Summarized transactions: 1	258.00
344	VIKING ELECTRIC SUPPLY INC	Summarized transactions: 2	256.00
345	LUHMANN ABE	Summarized transactions: 3	253.06
346	SAFELITE FULFILLMENT INC	Summarized transactions: 2	252.29
347	MOTOROLA INC	Summarized transactions: 1	247.95
348	PEOPLES ENERGY COOPERATIVE	Summarized transactions: 2	246.71
349	WINTHROP & WEINSTINE INC	Summarized transactions: 1	245.00
350	NALCO COMPANY	Summarized transactions: 1	240.47
351	SOLAR CONNECTION INC	Summarized transactions: 1	200.00
352	PETTIS JAMES	Summarized transactions: 1	199.50
353	STEVE BENNING ELECTRIC	Summarized transactions: 2	192.80
354	FEDEX FREIGHT INC	Summarized transactions: 1	190.46
355	CHS ROCHESTER	Summarized transactions: 3	185.38
356	LANGUAGE LINE SERVICES INC	Summarized transactions: 1	179.70
357	KELLY BRIAN	Summarized transactions: 2	179.14
358	RONCO ENGINEERING SALES INC	Summarized transactions: 3	177.50
359	ALTEC INDUSTRIES INC	Summarized transactions: 3	176.96
360	HI LINE UTILITY SUPPLY CO (P)	Summarized transactions: 1	150.45
361	HATHAWAY TREE SERVICE INC	Summarized transactions: 1	150.00
362	DAKOTA SUPPLY GROUP	Summarized transactions: 3	146.70
363	ALTERNATIVE TECHNOLOGIES INC	Summarized transactions: 1	140.00
364	PROPERTY RECORDS OLMSTED COUN	Summarized transactions: 2	138.00
365	CREDIT MANAGEMENT LP	Summarized transactions: 2	131.76
366	USA BLUE BOOK DBA	Summarized transactions: 2	131.03
367	MENARDS ROCHESTER NORTH	Summarized transactions: 2	126.59
368	GOODIN COMPANY	Summarized transactions: 4	122.40
369	VANCO SERVICES LLC	Summarized transactions: 1	115.12
370	U S A SAFETY SUPPLY	Summarized transactions: 3	112.37
371	MENARDS ROCHESTER NORTH	Summarized transactions: 3	106.90
372	QUANDT JARED	Summarized transactions: 2	106.13
373	TARCO INDUSTRIES INC	Summarized transactions: 1	105.81
374	HOGAN PETER	Summarized transactions: 1	101.50
375	BLOM BRYAN	Summarized transactions: 1	101.50
376	HELMBRECHT DAN	Summarized transactions: 1	100.00
377	PAPENFUSS RAY	Summarized transactions: 1	94.83
378	MIDWEST RENEWABLE ENERGY TRAC	Summarized transactions: 1	93.91
379	ROCH SIGN SERVICE INC	Summarized transactions: 1	90.84
380	LITTLE DAVID	Summarized transactions: 1	85.50
381	BREMER PATRICIA	Summarized transactions: 2	85.33
382	SLEEPY EYE TELEPHONE CO	Summarized transactions: 1	84.76
383	CUSTOM COMMUNICATIONS INC	Summarized transactions: 2	81.38
384	FERGUSON ENTERPRISES INC #165	Summarized transactions: 1	80.01
385	PULVER MOTOR SERVICE	Summarized transactions: 1	75.00
386	REBATES	Summarized transactions: 3	75.00
387	POLLARDWATER	Summarized transactions: 2	71.85
388	BERG SCOTT	Summarized transactions: 1	60.00
389	CHARTER COMMUNICATIONS HOLDIN	Summarized transactions: 1	58.55
390	JACKSON SIDNEY	Summarized transactions: 1	57.25
391	GARCIA GRAPHICS INC	Summarized transactions: 1	50.00
392	A T & T MOBILITY	Summarized transactions: 1	46.77
393	MISSISSIPPI WELDERS SUPPLY CO	Summarized transactions: 1	45.90
394	ZIEGLER INC	Summarized transactions: 1	44.43
395	MENARDS ROCHESTER SOUTH	Summarized transactions: 2	41.00
396	FLAGSOURCE dba	Summarized transactions: 1	40.83
397	MISTER CARWASH	Summarized transactions: 1	39.96
398	SHERWIN WILLIAMS CO	Summarized transactions: 2	38.87
399	AIRGAS SAFETY INC (P)	Summarized transactions: 1	36.61

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400	PROLINE DISTRIBUTORS	Summarized transactions: 2	33.97
401	FASTENAL COMPANY	Summarized transactions: 1	29.16
402	NORTH AMERICAN ELECTRIC RELIA	Summarized transactions: 1	27.87
403	MINNESOTA ENERGY RESOURCES CO	Summarized transactions: 1	25.63
404	GRAINGER INC	Summarized transactions: 1	23.20
405	JOHNSON CARY	Summarized transactions: 1	23.00
406	MN DEPT OF HEALTH	Summarized transactions: 1	23.00
407	RONCO ENGINEERING SALES INC	Summarized transactions: 1	22.00
408	ON SITE SANITATION INC	Summarized transactions: 1	21.03
409	MN DEPT OF LABOR & INDUSTRY	Summarized transactions: 2	20.00
410	LOUKEN LIGHTS	Summarized transactions: 1	17.10
411	LEAGUE OF MN CITIES	Summarized transactions: 1	15.00
412	GREAT RIVER ENERGY	Summarized transactions: 1	10.57
413	SARGENTS LANDSCAPE NURSERY IN	Summarized transactions: 1	8.46
414			
415			186,414.67
416			
417			11,008,396.69

Attachment: AP Board CrMo (9954 : a/p board listing)



## RESOLUTION

WHEREAS, Mr. Mark Browning has diligently served on the Utility Board since 2011 serving as Board President and specializing in operations, strategic planning, and administration, and

WHEREAS, Mr. Browning has been a valuable asset and has contributed substantially to the well-being of Rochester Public Utilities and the local citizens by his leadership and efforts in such areas as infrastructure planning, energy efficiency, customer service, environmental protection, economic development, and internal transitions within the Utility, and

WHEREAS, Rochester has benefited from the steady guidance and principled leadership of people like Mr. Browning who believe in municipal ownership, and

NOW, THEREFORE BE IT RESOLVED, that the Rochester Public Utility Board wishes to recognize and thank Mr. Browning for his leadership, many talents, commitment to excellence and service to the Board and community.

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 18<sup>th</sup> day of December, 2018.

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President

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Secretary

## FOR BOARD ACTION

**Agenda Item # (ID # 9925)**

**Meeting Date: 12/18/2018**

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**SUBJECT: Lake Zumbro Secondary Slide Gate System**

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**PREPARED BY: Andrew Bianco**

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**ITEM DESCRIPTION:**

In early 2016, as part of the annual inspection of the Lake Zumbro Hydroelectric facility, RPU directed Barr Engineering to evaluate the condition of the dam's three intake structures. The inability to completely shut off flow to either turbine for routine inspections was a concern of RPU staff. JF Brennan was hired to inspect these underwater shutoff structures via a dive team. The Brennan inspection team verified damaged concrete, deteriorating gates and failing gate sealing surfaces and material.

In 2017, Barr was tasked with identifying repairs for the current slide gates, which have been in place since 1983, and to design a replacement for the timber stoplog isolation system which is unable to seal and is hazardous for staff to install. RPU and Barr worked together to generate the bid packet released on November 7, 2018.

Three sealed bids were received on December 5, 2018. The successful bidder must complete this work between June and October of 2019.

The bid results are as follows:

<b>Contractor</b>	<b>Bid Amount</b>
<b>Veit &amp; Company, Inc.</b>	<b>\$597,700.00</b>
Engineering & Construction Innovation, Inc.	\$713,000.00
J.F. Brennan Company, Inc.	\$725,600.00

Veit & Company, Inc. submitted the lowest responsible bid for \$597,700.00. Technical evaluation of bids was performed by Barr Engineering along with RPU staff. Veit took no exceptions to the specifications and has accomplished similar hydro-related work in the past. The primary reason for the price difference is the gate system manufacturing.

Barr's estimate for this work was between \$635,000 and \$828,000, depending on means and methods of installation. This project is within budget and will be funded by the 2018 and 2019 capital budgets.

**UTILITY BOARD ACTION REQUESTED:**

## FOR BOARD ACTION

**Agenda Item #** (ID # 9925)

**Meeting Date:** 12/18/2018

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Approve a resolution to enter into an agreement with Veit & Company, Inc., in the amount of \$597,700.00, and to authorize the Mayor and City Clerk to execute the Agreement.

## FORM OF AGREEMENT

THIS AGREEMENT is by and between:

The City of Rochester, Minnesota  
 (a Minnesota municipal corporation, acting through its Public Utility Board) \_\_\_\_\_ ("Owner") and  
 Veit & Company, Inc. \_\_\_\_\_ ("Contractor").

Owner and Contractor hereby agree as follows:

### ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described in Division 01 of the Technical Specifications.

### ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents may be the whole or only a part, is generally described in Article 1.

### ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by Barr Engineering Co.
- 3.02 Owner has retained Barr Engineering Co. ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents. The duties and responsibilities and rights and authority of Engineer cannot be extended without written consent of Owner and Engineer.

### ARTICLE 4 – CONTRACT TIMES

- 4.01 *Time of the Essence*
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
  - B. For this project, Substantial Completion means being able to allow flow to the turbines without the need to shut down or restrict flow to complete the project.
- 4.02 *Contract Times: Dates*
- A. The portion of the work requiring the turbines to be offline will not start before July 29, 2019. The Work will be substantially completed on or before October 11, 2019, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before November 15, 2019.
- 4.03 *Liquidated Damages*
- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in



accordance with the Contract Documents. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):

1. Substantial Completion: Contractor shall pay Owner \$2000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$1000 for each day that expires after such time until the Work is completed and ready for final payment.
3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

## ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

A. Contract Price: \$ 597,700.00.

All specific cash allowances are included in the above price in accordance with Paragraph 13.02 of the General Conditions.

B. The Bid prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 10.06 of the General Conditions.

C. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

## ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions, as may be modified by the Supplemental Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.



1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
  - a. 90 percent of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
  - b. 0 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 15.01.E of the General Conditions, and less 200 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

#### 6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.
- B. No state agency or local unit of government can make final payment to a contractor until the Department of Revenue has certified via an IC-134, that the contractor and any subcontractor have fulfilled the requirements of Minnesota withholding tax laws.

### ARTICLE 7 – INTEREST

- 7.01 All amounts not paid when due shall bear interest as stated in MN Statutes 429.041 Subd. 6.

### ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS

- 8.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
  - A. Contractor has examined and carefully studied the Contract Documents and the other related data and reference items identified in the Bidding Documents.
  - B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  - C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
  - D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities), if any,



that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor's safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

## ARTICLE 9 – CONTRACT DOCUMENTS

### 9.01 *Contents*

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 1 to \_\_, inclusive).
  - 2. Performance bond (pages \_\_ to \_\_, inclusive).
  - 3. Payment bond (pages \_\_ to \_\_, inclusive).
  - 4. Other bonds.
    - a. \_\_ (pages \_\_ to \_\_, inclusive).
  - 5. General Conditions (pages \_\_ to \_\_, inclusive).
  - 6. Supplementary Conditions (pages \_\_ to \_\_, inclusive).
  - 7. Specifications as listed in the table of contents of the Project Manual.
  - 8. Drawings listed on the attached sheet index.
  - 9. Addenda (numbers \_\_ to \_\_, inclusive).





10. Exhibits to this Agreement (enumerated as follows):
  - a. Contractor's Bid (pages \_\_\_ to \_\_\_, inclusive).
  - b. Documentation submitted by Contractor prior to Notice of Award (pages \_\_\_ to \_\_\_ inclusive).
11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
  - a. Notice to Proceed.
  - b. Work Change Directives.
  - c. Change Orders.
  - d. Field Orders.
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## ARTICLE 10 – MISCELLANEOUS

### 10.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

### 10.02 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

### 10.03 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

### 10.04 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.



#### 10.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 10.05:
1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### 10.06 *Other Provisions*

- A. This Agreement shall be governed by the laws of the State of Minnesota.
- B. There are no other provisions.



IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

City of Rochester

\_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

Ardell Brede

\_\_\_\_\_

Title: Mayor

Title: \_\_\_\_\_

Attest: \_\_\_\_\_

\_\_\_\_\_

Anissa Hollingshead, City Clerk  
Approved  
as to  
form:

*(If Contractor is a corporation, a partnership, or a  
joint venture, attach evidence of authority to sign.)*

Jason Loos

Attest: \_\_\_\_\_

Title: City Attorney

Title: \_\_\_\_\_

Rochester Public Utilities

By: \_\_\_\_\_

Mark Kotschevar, General Manager

Address for giving notices:

Address for giving notices:

Rochester Public Utilities

Purchasing Dept.

\_\_\_\_\_

4000 East River Road NE

\_\_\_\_\_

Rochester MN 55906

\_\_\_\_\_

License No.: \_\_\_\_\_  
*(where applicable)*

*(If Owner is a corporation, attach evidence of  
authority to sign. If Owner is a public body, attach  
evidence of authority to sign and resolution or other  
documents authorizing execution of this Agreement.)*



Rochester Public Utilities

Form of Agreement



## RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve an agreement with Veit & Company, Inc. and authorize the Mayor and the City Clerk to execute the agreement for:

Lake Zumbro Secondary Slide Gate System

and allow for change orders in compliance with Board Policy Statement, Section 6. The amount of the agreement to be \$597,700.00

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 18 day of December, 2018.

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President

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Secretary

## FOR BOARD ACTION

Agenda Item # (ID # 9908)

Meeting Date: 12/18/2018

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**SUBJECT: Badger-Coulee Transmission Project Agreement**

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**PREPARED BY: Mark Kotschevar**

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ITEM DESCRIPTION:

Due to their participation in the CAPX 2020 project and their status as a Midcontinent Independent System Operator (MISO) transmission owner at the time of that project, Southern Minnesota Municipal Power Agency (SMMPA) has the opportunity and is participating in a MISO approved transmission project designated as the Badger-Coulee project. It is a 345 kV transmission line being constructed from the LaCrosse area to Madison, Wisconsin. MISO has designated this project as a Multi-Value project for cost allocation, meaning all load in the MISO region will pay for the project given its regional benefits. That revenue, including the FERC approved rate of return, will be returned to those participating in the project, with SMMPA being a 6% participant. At the March 31, 2015 Board meeting, the Board was given a presentation from MCR, a consulting firm specializing in transmission project economics, outlining the benefits to SMMPA, pre-2030, and RPU post-2030. Based on that presentation, the Board gave their consensus to proceed with negotiating an agreement with SMMPA that allows RPU to receive its share of benefits post-2030. We have been working on the agreement since that time and have now have a final draft. Austin Utilities has also negotiated a similar agreement. At the August 28, 2018 Board meeting, I gave the Board an update on the project, the economics, the agreement terms, and sought consensus to proceed with final negotiations. The attached agreement represents the final agreement reached, and was approved by the SMMPA Board at their December 12, 2018 Board meeting. The benefits from the project will flow indirectly to RPU as a member of SMMPA pre-2030, and directly to RPU post-2030. The net present value of the post-2030 benefits is estimated to be \$12,000,000. Under this agreement, SMMPA retains ownership in the project post-2030, but agrees to pass 43% of those post-2030 net benefits on to RPU. The City Attorney has been directly involved in the negotiations, and approves the terms and conditions of the agreement. Given this is written in the name of the City, consistent with other agency agreements, it will need City Council approval after Board approval. I will be available at the Board meeting to answer any questions.

UTILITY BOARD ACTION REQUESTED:

Approve the attached Badger-Coulee Transmission Project Agreement and request City Council approval of same.

**BADGER COULEE TRANSMISSION PROJECT AGREEMENT**  
between

**SOUTHERN MINNESOTA MUNICIPAL POWER AGENCY**

and

**CITY OF ROCHESTER, MINNESOTA**

This Badger Coulee Transmission Project Agreement (“Agreement”), made as of the \_\_\_ day of \_\_\_\_\_, 20\_\_, by and between Southern Minnesota Municipal Power Agency, a municipal corporation and political subdivision of the State of Minnesota, organized and existing under the laws of the State of Minnesota (hereinafter the “Agency”) and the City of Rochester, Minnesota, a municipal corporation of the State of Minnesota and a member of the Agency on the date of this Agreement, and Rochester Public Utilities (hereinafter collectively, the “City”) (the Agency and the City hereinafter are sometimes referred to collectively as “Parties” or, at times, individually as “Party”).

**WITNESSETH:**

WHEREAS, the Agency was organized under Minnesota Statutes, Chapter 453, as amended (the “Act”), to provide a means for those Minnesota cities which are members of the Agency to secure an adequate, economical and reliable supply of electric energy; and

WHEREAS, the Agency is empowered by Section 453.54 of the Act (i) to plan, acquire, construct, reconstruct, operate, maintain, repair, extend or improve one or more plants, works, systems or facilities used or useful in the production, transmission, purchase, sale, exchange or interchange of electric energy or to acquire any interest in any thereof or right to capacity of any thereof within or without the State of Minnesota, and (ii) to purchase, sell, exchange or transmit electric energy within and outside the State of Minnesota in such amounts as it shall determine to be necessary and appropriate to make the most effective use of its power and to meet its responsibilities and may enter into agreements with any person with respect to the purchase, sale, exchange or transmission on such terms and for such period of time as its Board of Directors determines, and (iii) to exercise all other powers not inconsistent with the Constitution of the State of Minnesota or the Constitution of the United States which powers may be necessary or appropriate for or incidental to the effectuation of its authorized purposes; and

WHEREAS, the Agency has formed SMMPA Wisconsin, LLC, a limited liability company under Wisconsin law, to acquire an undivided ownership interest in the Badger Coulee Transmission Line Project, a planned 345 kV transmission line to be constructed in Wisconsin and expected to be placed in service in 2018; and

WHEREAS, the Agency and the City entered into a Power Sales Contract in April 1981, as amended, pursuant to which the City will continue to purchase certain power and transmission services from the Agency through the initial term ending March 31, 2030 and thereafter until terminated (the “PSC Termination Date”); and

WHEREAS, until the PSC Termination Date, the City will be responsible for a share of the costs, and entitled to a share of the benefits of, the Agency's participation in the Badger Coulee Transmission Line Project under the terms of the Power Sales Contract; and

WHEREAS, to enable the City to remain responsible for a share of the costs and to continue receiving benefits from the Agency's participation in and the City's share of the rights to entitlement and other benefits of the Badger Coulee Transmission Line Project after the PSC Termination Date, the Parties desire to enter into this Agreement; and

WHEREAS, in order to enable the Agency to issue its Bonds (hereinafter defined) to pay or provide for the payment of cost of acquisition of the Agency's interest in the Badger Coulee Transmission Line Project, it is necessary for the Agency to have binding contracts with each of its current Members electing to share in the rights to entitlement and other benefits of the Badger Coulee Transmission Line Project who (i) have Power Sales Contracts with an initial term ending on March 31, 2030 and (ii) desire to be entitled to a share of the benefits of and responsible for a share of the costs of the Agency's interest in the Badger Coulee Transmission Line Project after the PSC Termination Date, and to pledge the payments required to be made under such contracts (including this Agreement) as security for the payment of such Bonds;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the Parties hereto as follows:

## ARTICLE I DEFINITIONS

**Agency** shall mean the Southern Minnesota Municipal Power Agency, a municipal corporation and political subdivision of the State of Minnesota.

**Agency Agreement** shall mean the Agency Agreement, dated as of April 1, 1977, as amended, creating the Agency.

**Agreement** shall mean this Badger Coulee Transmission Project Agreement between the City and the Agency.

**Annual Administrative and General Costs** shall mean, for each Project Year during the Term of this Agreement, an amount calculated annually pursuant to the methodology in Schedule A to this Agreement, as may be revised from time to time.

**BC Project** shall mean the Badger Coulee 345 kV transmission line being developed jointly by ATC and NSP from the Briggs Road Substation in Onalaska, Wisconsin to the North Madison Substation in Vienna, Wisconsin.

**BC Project Agreements** shall mean this Agreement and any other substantially similar agreements between the Agency and the other BC Project Members.

**BC Project Annual Budget** shall mean, with respect to a Project Year, the budget or amended budget adopted by the Agency pursuant to Section 6.1 hereof, which budget shall contain

itemized estimates of the costs relating to the Agency's BC Project Interest and all revenues, income or other funds to be applied to such costs and shall separately show the Debt Service costs relating to the Agency's BC Project Interest.

**BC Project Billing Statement** shall mean the written statement prepared or caused to be prepared monthly by the Agency that shall be based upon the BC Project Annual Budget or upon the amended BC Project Annual Budget, which shall show the monthly amount to be paid to the Agency by the City under this Agreement.

**BC Project Electric Markets Revenue Statement** shall mean the written statement prepared or caused to be prepared by the Agency that shall reflect Organized Electric Markets Revenues.

**BC Project Entitlements Agreement** shall mean the Badger Coulee Project Entitlements Agreement dated as of November 19, 2015 between SMMPA Wisconsin and the Agency.

**BC Project Interest** shall mean the Agency's 100% cost share and entitlement share to rights to entitlement and other benefits from SMMPA Wisconsin's Entitlement Share in the BC Project purchased by the Agency from SMMPA Wisconsin pursuant to the BC Project Entitlements Agreement.

**BC Project Members** shall mean those members of the Agency on the date of this Agreement who have entered into agreements with the Agency substantially similar to this Agreement and shall include the City.

**BC Project Percentage** shall mean the respective percentage interests of each of the BC Project Members in the BC Project Interest as set forth on Schedule B hereto.

**BC Project Resolution** shall mean the Badger Coulee Project Revenue Bond Resolution adopted by the Agency on August 12, 2015 as from time to time amended or supplemented by supplemental resolutions in accordance with the terms thereof.

**Board of Managers** shall have the meaning set forth in the Operating Agreement.

**Bonds** shall mean bonds, notes or other evidences of indebtedness issued by the Agency pursuant to or as permitted by the provisions of the BC Project Resolution solely for the purpose of financing or refinancing the Costs of Acquisition and Construction of the BC Project Interest, whether or not any issue of such bonds, notes or other evidences of indebtedness shall be subordinated as to payment to any other issue of such bonds, and shall include refunding bonds.

**Business Day** shall mean any weekday (*i.e.*, other than Saturday or Sunday) that is not a holiday observed by banks in the State of Minnesota.

**City** shall mean Rochester, Minnesota.

**Code** shall mean the Internal Revenue Code of 1986, as amended.



***Costs of Acquisition and Construction*** shall have the meaning set forth in the BC Project Resolution.

***Debt Service*** shall mean, with respect to any period, the aggregate of the amounts required by the BC Project Resolution to be paid during said period into any fund or funds created by the BC Project Resolution for the sole purpose of paying (i) the principal (including the sinking fund installments) of, and premium, if any, and interest on, the Bonds and (ii) any payments on Qualified Hedging Contracts (as defined in the BC Project Resolution), including any swap premium or swap termination payment, or Reimbursement Obligations (as defined in the BC Project Resolution), relating to the Bonds from time to time outstanding as the same shall become due; provided, however, that Debt Service shall not include any principal of or premium, if any, or interest on Bonds due solely by virtue of the acceleration of the maturity of the Bonds.

***Default Rate*** shall mean, for any date, the lesser of (a) 1/365 of the sum of: (x) the per annum prime lending rate as may from time to time be published in *The Wall Street Journal* under “Money Rates” on such day (or if not published on such day on the most recent preceding day on which published) and (y) two percentage points (200 basis points); and (b) the maximum rate permitted by applicable law. In applying the Default Rate, interest shall be compounded daily.

***Effective Date*** shall mean the PSC Termination Date of the City.

***Entitlement Share in the BC Project*** shall mean the undivided ownership interest of SMMPA Wisconsin in the BC Project as more particularly set forth in the Ownership and Operating Agreements and as set forth on Schedule B hereto as such interest may be increased or decreased pursuant to the provisions of the Ownership and Operating Agreements.

***Governmental Authority*** shall mean any applicable federal, state, county, municipal or other government, quasi-government or regulatory authority, agency, board, body, commission, instrumentality, court or tribunal, or any political subdivision of any thereof.

***MISO*** shall mean the Midcontinent Independent System Operator Inc. or successor thereto.

***Month*** shall mean a calendar month.

***Monthly Project Costs*** shall mean the Project Costs that are accrued or payable by SMMPA Wisconsin or by the Agency in connection with the BC Project during each Month of each Project Year substantially in accordance with the BC Project Annual Budget, as such budget may be amended pursuant to Section 6.1.

***Operating Agreement*** shall mean the SMMPA Wisconsin, LLC Operating Agreement dated August 6, 2014 between SMMPA Wisconsin and the Agency.

***Organized Electric Markets*** shall mean regional transmission organizations, independent system operators, and other organized electric markets including, without limitation, MISO.

***Organized Electric Markets Revenues*** shall mean all moneys received by the Agency as payments from Organized Electric Markets to SMMPA Wisconsin and/or the Agency pursuant to the terms of the relevant applicable tariff approved by the Federal Energy Regulatory Commission

(“FERC”) in effect at the time, as may be revised from time to time, relating to SMMPA Wisconsin’s Entitlement Share in the BC Project.

***Outstanding*** shall have the meaning set forth in the BC Project Resolution.

***Ownership and Operating Agreements*** shall mean the agreement or agreements among SMMPA Wisconsin and the other owners of the BC Project, including all attachments, schedules, appendices and the like, as such agreements shall be amended and in effect from time to time, and as such agreements establish the terms and conditions of SMMPA Wisconsin’s entitlements to and obligations regarding the BC Project.

***Person*** shall mean an individual, a corporation, a partnership, a limited liability company, an association, a joint-stock company, a trust, an unincorporated organization or any government or political subdivision thereof.

***Project Costs*** shall mean all of the Agency’s costs, to the extent not paid from the proceeds of the Bonds, notes or other evidences of indebtedness issued in anticipation of Bonds, resulting from the acquisition by the Agency of its BC Project Interest, and the operation and maintenance of and renewals and replacements of the BC Project Interest and shall include all costs in connection with SMMPA Wisconsin’s Entitlement Share in the BC Project pursuant to the Ownership and Operating Agreements, but shall not include any costs not related to the BC Project. Without limiting the foregoing, Project Costs shall consist of:

- (a) The amounts which the Agency is required under the BC Project Resolution to pay or deposit into any funds or accounts established by the BC Project Resolution for Debt Service and for any reserve requirements for Bonds.
- (b) The amount which the Agency is required to pay or deposit into any fund or account established by the BC Project Resolution or otherwise for the payment of interest on notes or on other evidences of indebtedness issued in anticipation of the issuance of Bonds.
- (c) The amount not otherwise included under any item in clause (a) or in clause (b) above which the Agency is required under the BC Project Resolution to pay or deposit during such Project Year into any other fund or account established by the BC Project Resolution, and shall include, without limitation, any amounts required to make up a deficiency in any fund required or permitted by the BC Project Resolution whether or not resulting from a default in payments by any BC Project Members of amounts due under any BC Project Agreement.
- (d) The costs payable by SMMPA Wisconsin under the Ownership and Operating Agreements and/or by the Agency pursuant to the BC Project Entitlements Agreement relating to the BC Project Interest during such Project Year, including, but not limited to, (i) ordinary operation and maintenance costs, insurance costs (including amounts to fund any self insurance program), overhead costs and any other costs payable by

SMMPA Wisconsin and/or by the Agency in connection with rights to entitlement and other benefits from the BC Project Interest and (ii) all costs related to the conducting of the business of the Agency and/or SMMPA Wisconsin with respect to the BC Project Interest, including fees for legal, engineering, financial and other services and all other expenses properly incurred and related to the BC Project.

- (e) Annual Administrative and General Costs.
- (f) Any extraordinary costs relating to the items in clause (d).

The Agency shall apply as a credit against Project Costs all receipts and other moneys received by the Agency from SMMPA Wisconsin under the BC Project Entitlements Agreement or pursuant to the Ownership and Operating Agreements including, but not limited to, Organized Electric Markets Revenues, and interest earned on investments, if and to the extent not credited against the Costs of Acquisition and Construction, but shall not include any receipts and moneys not related to the BC Project.

**Project Year** shall mean the twelve-month period commencing at 12:01 a.m. on January 1 of each year and ending on 12:01 a.m. on the following January 1 except that the first Project Year shall begin on the Effective Date.

**Prudent Utility Practice** at a particular time shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry prior to such time, or any of the practices, methods and acts that, 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 the lowest reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent 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 a spectrum of possible practices, methods or acts having due regard for manufacturers' warranties and the requirements of governmental agencies of competent jurisdiction. In evaluating whether any act or proposal conforms to Prudent Utility Practice, the parties shall take into account the objective to achieve optimum utilization of the Agency's resources.

**PSC Termination Date** shall have the meaning assigned to it in the Recitals.

**SMMPA Wisconsin** shall mean SMMPA Wisconsin, LLC, a Wisconsin limited liability company which is a wholly-owned subsidiary of the Agency, created by the Agency for the purpose of acquiring an undivided ownership in the BC Project.

**System BC Project Percentage** shall mean the Agency's BC Project Interest minus the total BC Project Percentage for all BC Project Members.

**System Power Sales Contracts** shall have the same meaning as the definition of "Power Sales Contracts" in the System Resolution.

**System Resolution** shall mean the Agency's Power Supply System Revenue Bond Resolution, adopted May 11, 1983, as amended and supplemented.

**Term** shall mean the period in which this Agreement is in effect as set forth in Article Two.

**Transfer** shall have the meaning assigned to it in Section 9.1.

**Transferee** shall mean a Person to whom a Transfer is permitted and to whom a Transfer is made or proposed to be made.

**Transferor** shall mean a Party making or proposing to make a Transfer to another Person.

**Trustee** shall have the meaning assigned to it in the BC Project Resolution.

## ARTICLE II TERM

**Section 2.1** This Agreement shall be binding on the Parties upon execution by both of the Parties. However, except as otherwise expressly provided herein, its terms shall remain in abeyance during the remaining term of the City's System Power Sales Contract and the Parties' obligations hereunder shall not commence until the Effective Date. On and after the Effective Date of this Agreement, the City shall not be required to be a member of the Agency.

**Section 2.2** This Agreement shall remain in effect until, and shall terminate on the termination date of the Agency Agreement, unless terminated earlier (i) pursuant to Section 9.3, (ii) as a result of a default by the City, or (iii) pursuant to Section 2.3. This Agreement may be terminated by mutual consent of the Parties so long as there are no Bonds Outstanding under the BC Project Resolution. Prior to the termination date of this Agreement set forth in this Section 2.2, if the BC Project is expected to have a useful life after such termination date, the Agency and the City hereby agree to negotiate to preserve the Agency's and the City's rights and obligations under this Agreement after such termination date in a manner mutually acceptable to both Parties.

**Section 2.3** The Agency shall have the right to terminate this Agreement prior to the termination date of the Agency Agreement in the event of (i) early termination by SMMPA Wisconsin (or, if applicable, the Agency) in the BC Project, or (ii) early termination of the BC Project itself for any reason pursuant to the Ownership and Operating Agreements; provided, however, this Agreement shall not be terminated so long as there are Bonds Outstanding under the BC Project Resolution. In the event of a termination of the Agency Agreement, the Agency shall assign to the City its rights to entitlement and other benefits under the BC Project Entitlements Agreement in an amount equal to the City's BC Project Percentage.

**Section 2.4** Upon termination, each Party shall be released from all of its obligations under this Agreement other than those obligations arising prior to such termination and those obligations which survive termination of this Agreement pursuant to Section 15.13.

## ARTICLE III RELATIONSHIP TO OTHER CONTRACTS

**Section 3.1** The Agency has entered into the BC Project Entitlements Agreement in order to purchase from SMMPA Wisconsin its rights to entitlement and other benefits from its Entitlement Share in the BC Project. SMMPA Wisconsin's ownership rights and other terms and

conditions of its use of and/or rights to entitlement and other benefits from its Entitlement Share in the BC Project will be determined under the Ownership and Operating Agreements. The Parties acknowledge that the terms of the Ownership and Operating Agreements and the BC Project Entitlements Agreement will affect the Parties' rights hereunder.

**Section 3.2** This Agreement does not create any ownership rights on the part of the City with respect to the BC Project Interest.

**Section 3.3** The Agency may sell Bonds and may enter into other financial instruments in connection with its BC Project Interest. Bonds may be sold in one or more series, and may be based on a fixed or variable rate of interest in accordance with the BC Project Resolution. Additional Bonds may be sold and issued by the Agency in accordance with the provisions of the BC Project Resolution at any time and from time to time for the purpose of funding expenditures for, among others, additional facilities, enhancements, betterments, improvements or renewals or replacements related to the BC Project Interest. The Agency may incur other obligations, including interest rate hedge agreements, pursuant to the BC Project Resolution, to achieve purposes determined by the Agency to be beneficial to the BC Project Interest. In the event that the Agency may determine it to be beneficial to refund any Bonds, the Agency may issue and sell refunding Bonds in accordance with the BC Project Resolution. Any such Bonds, notes, additional Bonds, refunding Bonds or other financial instruments may be secured by the pledge made pursuant to the BC Project Resolution of the payments required to be made by the City hereunder (and by any other BC Project Members). The City and the Agency acknowledge and agree that the terms of this Agreement, and the actions of the Parties pursuant hereto, must at all times be consistent with the Agency's binding obligations under its financing documents including the BC Project Resolution.

#### **ARTICLE IV CITY'S PERCENTAGE ENTITLEMENT**

**Section 4.1** The City shall be entitled to the financial benefits of, and shall be responsible for the costs of, the City's BC Project Percentage of the BC Project Interest. It is understood that the City shall be entitled to the City's BC Project Percentage of receipts and rights and other financial benefits received by the Agency in connection with the BC Project Interest, including but not limited to Organized Electric Market Revenues, rather than an entitlement to reserve or use the City's BC Project Percentage of any particular transmission capacity. While it is expected that all parties to BC Project Agreements including the City (along with members of the Agency with Power Sales Contracts with a term that remains in effect until April 1, 2050 and other customers in the region) will benefit generally from increased transmission capability created by the BC Project, potentially in the form of reduced energy costs, this Agreement does not create any particular entitlement on the City's part to any such benefits, and the Agency shall have no liability to the City if such expected general benefits do not materialize.

#### **ARTICLE V COST RESPONSIBILITY**

**Section 5.1** The City will be responsible for its BC Project Percentage of the costs the Agency incurs in connection with its BC Project Interest. The City's obligation to pay for its BC



Project Percentage of such costs shall be effective upon the Effective Date and continue until the end of the Term notwithstanding the occurrence of any event, or the taking of any action permitted by this Agreement. The provisions that follow are intended to implement, but not to narrow, this intention.

**Section 5.2** For the period on and after the Effective Date, the City shall pay Monthly Project Costs that reflect the City's BC Project Percentage of the Agency's costs relating to the BC Project Interest, net of the City's BC Project Percentage share of any receipts and other moneys derived from the BC Project including, but not limited to, Organized Electric Markets Revenues. Monthly Project Costs are due in full irrespective of: (i) the operating status or actual usage of the facilities constituting the BC Project Interest; and (ii) the recovery of any receipts and other moneys from the BC Project Interest. Monthly Project Costs shall be offset by credits to the City in the amount of the City's BC Project Percentage of the receipts and other moneys received by the Agency including, but not limited to, Organized Electric Markets Revenues that are directly attributable to its BC Project Interest.

## **ARTICLE VI BUDGET, BILLING AND PAYMENTS**

**Section 6.1** The Agency's projected costs of its BC Project Interest shall be included in the BC Project Annual Budget which shall be separate from but included in the Agency's annual budget. The Agency shall prepare and submit to the City the BC Project Annual Budget at least ninety (90) days prior to the beginning of each Project Year. The BC Project Annual Budget shall establish the basis for the billing of the cost components of Monthly Project Costs. The City may then submit to the Agency, at any time until such Budget is adopted, any matters or suggestions relating to such Budget that the City may care to present and the Agency shall give due consideration to said matters or suggestions. The Agency shall then proceed with the consideration and adoption of such BC Project Annual Budget not less than thirty (30) nor more than sixty (60) days prior to the beginning of such Project Year, and shall cause copies of such adopted BC Project Annual Budget to be delivered to the City; provided, however, that the BC Project Annual Budget for the first Project Year shall be prepared, considered, adopted and delivered in the most practicable manner available in the discretion of the Agency. As required from time to time during any Project Year after thirty (30) days' notice to the City, the Agency may adopt an amended BC Project Annual Budget for and applicable to such Project Year for the remainder of such Project Year.

**Section 6.2** By the tenth calendar day of each Month during each Project Year, the Agency shall provide a BC Project Billing Statement to the City which shall bill the minimum cost component of Monthly Project Costs for the current Month together with any variable cost components for the prior Month. At such time the Agency shall provide a BC Project Electric Markets Revenue Statement to the City which shall detail Organized Electric Markets Revenues and all other receipts and other moneys received with respect to the BC Project Interest for the prior Month. The BC Project Billing Statement shall detail charges for Monthly Project Costs, and shall be reduced by the City's BC Project Percentage of (i) receipts and other moneys received with respect to the BC Project Interest including, but not limited to, the City's BC Project Percentage of Organized Electric Markets Revenues for the prior Month or (ii) any refunds received by the Agency. To the extent that the amount of Monthly Project Costs set forth on the

BC Project Billing Statement exceeds the City's BC Project Percentage of the sum of items (i) and (ii) of the preceding sentence on a BC Project Billing Statement, such difference shall be paid by the City to the Agency on or before 15 days after receipt of such BC Project Billing Statement via a bank wire transfer or ACH debit to the Agency's bank account in accordance with the instructions provided in writing by the Agency. To the extent that the City's BC Project Percentage of the sum of items (i) and (ii) of the preceding sentence on a BC Project Billing Statement exceeds the amount of Monthly Project Costs set forth on such BC Project Billing Statement, such difference shall be paid by the Agency to the City in accordance with instructions provided to the Agency by the City.

**Section 6.3** At the end of each Project Year, the Agency shall determine if the aggregate amount paid by the City under this Agreement to provide recovery of all the Agency's costs during such Project Year was in the proper amount. Upon making such determination, any amount found to have been paid by the City in excess of the amount that should have been paid by the City for the Project Year under review by the Agency shall, at the election of the City, either be paid to the City, or credited on the BC Project Billing Statements to the City for the remaining Month or Months of the Project Year following the Project Year for which such adjustment was determined to have been necessary. The City must be fully compensated for any over recovery by the end of such following Project Year either as the result of credits and payments, including, but not limited to the City's BC Project Percentage of Organized Electric Markets Revenues, or a combination thereof. The amount of any deficiencies shall, at the election of the Agency, either be paid by the City to the Agency or be added to the BC Project Billing Statements in equal installments over the remaining Month or Months of the Project Year following the Project Year for which such adjustment was determined to be necessary. In the event that the failure of a BC Project Member to pay any amounts due under its Agreement shall have resulted in the application of amounts in any reserve or working capital fund to the payment of costs payable from such reserve or working capital fund and the other BC Project Members shall have made up the deficiency created by such application or paid additional amounts into such reserve or working capital fund, amounts, including interest, thereafter paid to the Agency by such non-paying BC Project Member for application to such past due payments shall be credited on the BC Project Billing Statements of such other BC Project Members in the next Month or Months as shall be appropriate.

**Section 6.4** In the event the City disputes in good faith any portion of BC Project Billing Statement, the City shall give written notice of such dispute to the Agency. The Agency shall exercise due diligence in considering such dispute and will advise the City with regard to the Agency's position relative thereto within thirty (30) days following written notification by the City of such dispute. Notwithstanding the existence or pendency of any such dispute, the City shall pay the Agency the full amount of such BC Project Billing Statement when due. Upon determination of the correct amount, the difference between such correct amount and such full amount, if any, shall be credited to the City by the Agency on the next BC Project Billing Statement to be issued after such determination.

**Section 6.5** Not more than once a year, the City may conduct an audit of (i) records maintained by the Agency in conjunction with the BC Project Interest, and (ii) all costs charged and receipts and other moneys credited to the City hereunder. If the City wishes to initiate such an audit, it shall offer any other BC Project Members the opportunity to participate. The costs of such audits shall be borne by the participating BC Project Members, either directly or through

reimbursement to the Agency. The Agency shall cooperate with one such audit in a given year, by making available documents and other information reasonably requested in connection therewith, during normal business hours, including knowledgeable personnel.

**Section 6.6** No challenge may be raised by the City with respect to the validity of costs charged by SMMPA Wisconsin to the Agency pursuant to the BC Project Entitlements Agreement for costs incurred under the Ownership and Operating Agreements (including challenges to the correctness and/or prudence of such costs) except to the extent that SMMPA Wisconsin can in turn raise the challenge under the Ownership and Operating Agreements, and the resolution of any such challenge under the Ownership and Operating Agreements shall be dispositive as between the City and the Agency.

**Section 6.7** If, pursuant to the Ownership and Operating Agreements, the Agency receives any refunds (as opposed to credits against its monthly bills, which will be used to reduce Monthly Project Costs hereunder) of any of its BC Project Interest costs, it shall promptly pay to the City its BC Project Percentage of such refunds.

**Section 6.8** All amounts payable by the City under this Agreement shall be due whether or not the BC Project Interest is completed or is operating or operable, and such payments shall not be subject to any reduction, whether by offset, counterclaim, recoupment or otherwise, and shall not be conditioned upon the performance or nonperformance of the Agency, SMMPA Wisconsin or other BC Project Members or any other person under this Agreement or any other agreement for any cause whatsoever.

## ARTICLE VII INFORMATION REGARDING BC PROJECT

**Section 7.1** The Parties recognize that the Agency's ability to obtain information about the BC Project to provide to the City is governed by the provisions of the Ownership and Operating Agreements to which SMMPA Wisconsin is a party.

**Section 7.2** The Parties acknowledge that the Operating Agreement defines the relationship between the Agency and SMMPA Wisconsin, as it relates to the BC Project Interest, and that such agreement establishes a Board of Managers to oversee the management and operation of SMMPA Wisconsin. On the Effective Date and thereafter until the termination of this Agreement, the Parties (or their successors and permitted assigns hereunder) shall work in good faith to establish a process through which the Agency will provide information to, and receive feedback from, the City with respect to the BC Project Interest. Without limiting the foregoing, the Agency shall:

- (a) In a timely fashion transmit to the City all material information about the BC Project that the Agency receives regarding (1) operating matters, (2) matters that are expected to affect costs over the long term (*e.g.*, capital improvements), and (3) matters that are expected to affect the Agency's rights and other benefits associated with the BC Project, including qualification for Organized Electric Market Revenues;



- (b) Make or, cause to be made, reasonable efforts to obtain any specific BC Project information requested by the City, pursuant to the terms of the Ownership and Operating Agreements;
- (c) Upon request by the City make available, at a reasonable time and location, any and all information regarding the BC Project in the Agency's possession, including BC Project budget information it obtains pursuant to the Ownership and Operating Agreements; and
- (d) Transmit to the City material information relating to the BC Project Annual Budget.

**Section 7.3** The City's rights with respect to the Agency financing activities (if any) associated with the BC Project Interest shall be as follows:

- (a) The City shall have the right to be informed of the Agency's decisions as to the appropriate financial instruments to use in connection with its ownership of the BC Project Interest pursuant to Section 3.3.
- (b) The City shall have an opportunity to review any proposed financing plans of the Agency related to the Agency's BC Project Interest. Following submission to the City of any such proposed financing plans, the City may present to the Agency its assessment of whether a proposed financing is in the best interest of the City prior to the Agency's approval of any BC Project Interest financing. If appropriate, the City may at the same time present to the Agency any recommended changes to the Agency's proposed financing plan provided, however, recommendations of the City shall not be binding on the Agency and will be one of many factors used by the Agency in preparing and implementing its financial plans related to its BC Project Interest.

Nothing herein shall create or grant the City a consent right with respect to any financing by the Agency relating to the BC Project Interest, or create or impose a condition thereto, or be deemed as a limitation on the City's obligations under Sections 5.1 and 5.2 hereof.

**Section 7.4** The Parties recognize that some or all of the BC Project information provided by the Agency to the City hereunder, either orally or in writing, will be deemed confidential and subject to certain restrictions pursuant to the Ownership and Operating Agreements. The City hereby agrees to abide by all such restrictions on the use of confidential BC Project information it obtains hereunder. The confidentiality provisions of the Ownership and Operating Agreements when such agreements are completed and executed shall be made a part hereof by reference. The Parties recognize that any confidentiality restrictions hereunder must be consistent with their obligations under the Minnesota open-meeting laws and the Minnesota Government Data Practices Act.

## ARTICLE VIII LIABILITY AND INDEMNIFICATION

**Section 8.1** The City understands and acknowledges that (i) the Agency is not a party to the Ownership and Operating Agreements, its rights are derived only through the BC Project Entitlements Agreement, and SMMPA Wisconsin as a minority co-owner of the BC Project is expected to have no significant control over the construction, management or operation of the BC Project and (ii) transmission service over the BC Project is expected to be provided pursuant to the Organized Energy Markets that will not permit the Agency to control usage of the BC Project, therefore, the City waives, to the fullest extent permitted by law, any claims it might have against the Agency, and the Agency shall have no liability whatsoever to the City, with respect to the construction, management and operation of BC Project, or for any actions, omissions, decisions, errors, negligence, or other behavior of the Persons that will be responsible for constructing, managing, operating, or providing transmission service over the facilities constituting the BC Project. The Parties acknowledge that actual costs of and receipts and other moneys produced by the BC Project will likely vary from figures set forth in any BC Project budgets provided by the Agency, and that the Agency's provision of such estimates to the City shall not limit the City's obligation hereunder to pay its share of the actual costs.

**Section 8.2** Each Party expressly agrees, to the fullest extent permitted by law, to indemnify, hold harmless and defend the other Party against any and all claims, liability, costs or expenses (including without limitation attorneys' fees and expenses) for loss, damage or injury to persons or property in any manner directly or indirectly connected with this Agreement or the BC Project to the extent arising out of its bad faith, gross negligence, or reckless or willful misconduct.

**Section 8.3** To the fullest extent permitted by law, neither Party shall be liable to the other for punitive, indirect, exemplary, consequential, or incidental damages arising in connection with this Agreement.

## ARTICLE IX ASSIGNMENT

**Section 9.1** Except as otherwise provided in this Article Nine, neither Party may sell, lease, assign, transfer, convey or otherwise dispose of in any manner, directly or indirectly (collectively, "Transfer") all or any part of its rights, obligations, benefits, advantages, titles and interest in this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, conditioned or delayed, and any such Transfer in contravention of this Article Nine shall be null and void *ab initio*. Such consent may be conditioned on such matters as the Agency reasonably considers necessary including, without limitation, the Transferee's creditworthiness and whether any such Transfer would, in the opinion of the Agency, adversely affect the exclusion from gross income for federal income tax purposes of the Bonds of any series the interest on which is intended to be excluded. For purposes of this Section, any ground that is reasonably likely to have an adverse effect on the non-transferring Party may constitute a ground for withholding or conditioning its consent and shall be described to the Transferor in reasonable detail if consent is denied.

**Section 9.2** If a Party desires to Transfer its interest in this Agreement, then no less than 90 days prior to such proposed Transfer, the Transferor shall provide written notice thereof to the other Party. The notice shall identify the proposed Transferee, the proposed terms and conditions of such Transfer and the date on which the Party proposes to affect the Transfer.

**Section 9.3** If the City proposes to Transfer its interest in this Agreement, the Agency shall have the right of first refusal to re-acquire the rights to the City's BC Project Percentage, and, if it exercises such right of first refusal, the Agency shall have the right, subject to the provisions of Section 2.3, to terminate this Agreement effective as of the proposed Transfer date and the City shall be released from its obligations hereunder, effective as of the date of termination. If the Agency chooses to exercise this right, it shall provide notice of its election to the City no later than 45 days after receiving the notice provided by the City pursuant to Section 9.2. If the Agency chooses not to exercise this right, the proposed Transfer may go forward if, but only, if the Agency consents to the Transfer pursuant to Section 9.1 hereof.

**Section 9.4** As a condition precedent to any permitted Transfer hereunder:

- (a) at the time of the Transfer, either (i) the Transferor must not be in default of any of its material obligations under this Agreement or (ii) such default must be cured by either the Transferor or the Transferee on or prior to the date of the Transfer;
- (b) the Transferee shall provide evidence, satisfactory to the non-transferring Party, that the credit rating on its long-term, unenhanced, senior lien debt is not lower than the highest rating of the long-term, unenhanced, senior lien debt of the Transferor; provided, however, if the Transferor shall not have a rating then in effect, the Transferee's credit rating shall not be lower than the highest rating of the Agency's long-term, unenhanced, senior lien debt issued under the System Resolution. In the event that there is a rating by only two (2) of such rating agencies and there is a split rating, the highest rating will apply. In the event that there is a rating by each of such rating agencies and there is a split rating: (a) if two (2) of the three ratings are the same, then such rating shall apply, and (b) if none of the ratings are the same, the middle rating shall apply. In the event there is only one rating, that rating will apply; and
- (c) the Transferor shall deliver to the other Party documents satisfactory to it evidencing Transferee's acceptance of the Transfer and assumption of all of the Transferor's obligations under this Agreement.

**Section 9.5** Notwithstanding anything in this Article Nine, no Transfer of this Agreement will be permitted if it would violate the covenant contained in clause (i) of Section 12.2, if it would violate the Ownership and Operating Agreements or if it would violate the BC Project Entitlements Agreement.

**Section 9.6** The Agency may also assign its interest in this Agreement, in whole or in part, to a trustee, bank, or other Person as is necessary in connection with the financing of the BC

Project Interest, and shall not be required to provide advance notice to City of, or obtain City's consent to, any such assignments made for financing purposes.

## **ARTICLE X DISPUTE RESOLUTION**

**Section 10.1** If a dispute under this Agreement arises between the Parties, the aggrieved Party may provide written notice thereof to the other Party, including a reasonably specific description of the subject matter of the dispute.

**Section 10.2** Representatives of the Parties shall in good faith attempt to resolve such dispute by informal negotiations within ten Business Days from the date of receipt of a dispute notice under Section 10.1.

**Section 10.3** If the dispute is not resolved within ten Business Days following receipt of the dispute notice or such later date as the Parties may mutually agree, then each Party shall promptly designate its most senior executive responsible for the subject matter of the dispute who shall have authority to resolve the dispute. The senior executives shall obtain such information as may be necessary to inform themselves of the substance and particulars of the dispute and shall meet within 20 Business Days following the receipt of the dispute notice, at a time and place mutually acceptable to the senior executives.

**Section 10.4** If the dispute remains unresolved after 30 Business Days following receipt of the dispute notice or such later date as the Parties mutually agree, then either Party may pursue its claims in any court, regulatory agency or other forum of competent jurisdiction, and both Parties shall retain all rights and positions that either may have under law, and may seek such relief and remedies to which they may be entitled under the applicable law.

## **ARTICLE XI DEFAULT AND REMEDIES**

**Section 11.1** Failure of the City to make to the Agency any of the payments for which provision is made in this Agreement shall constitute a default on the part of the City. Failure of the Agency to make payments into the Revenue Fund (as defined in the BC Project Resolution) pursuant to Section 708.1 of the BC Project Resolution shall constitute a default on the part of the Agency. Failure of the Agency to make or credit to the City any of the payments or credits for which provision is made in this Agreement shall constitute a default on the part of the Agency. If either Party shall be in default hereunder, interest shall be payable by the defaulting Party on all amounts not paid on or before the payment due date, over the actual number of days elapsed from the payment due date to the date such amounts are paid, at the Default Rate.

**Section 11.2** In the event of any such default by the City, the City shall not be relieved of its liability for payment of the amounts in default, and the Agency shall have the right and obligation to exercise its best efforts to recover from the City any amount in default. In enforcement of any such right of recovery, the Agency may bring any suit, action, or proceeding in law or in equity, including, without limitation, mandamus and action for specific performance as may be necessary or appropriate to enforce any covenant, agreement, or obligation to make

payment for which provision is made in this Agreement against the City. In the event of any such default by the Agency, the Agency shall not be relieved of its liability for payment or credit of the amounts in default. The Trustee under the BC Project Resolution shall have the right and obligation to exercise its best efforts to recover from the Agency any amount in default. In enforcement of any such right of recovery, the Trustee may bring any suit, action, or proceeding in law or in equity, including, without limitation, mandamus and action for specific performance as may be necessary or appropriate to enforce against the Agency the covenant to make payments into the Revenue Fund pursuant to Section 7.08.1 of the BC Project Resolution.

**Section 11.3** If at any time the City or the Agency fails to cure a payment or credit default within sixty (60) days its rights to entitlement and other benefits from the BC Project shall cease and discontinue for so long as such default continues. If the default continues for a period in excess of 180 days or if a non-defaulting BC Project Member or the Agency, as the case may be, exercises its right of first refusal to purchase a pro rata share of such defaulting BC Project Member's BC Project Percentage or the Agency's System BC Project Percentage, as the case may be, whichever occurs first, the Agency, in the case of a non-defaulting BC Project Member, or the Trustee, in the case of a default by the Agency, may, in its discretion, permanently discontinue service to the defaulting BC Project Member or the Agency, as the case may be. The City's obligation to make payments under this Agreement and the Agency's obligation to make payments pursuant to Section 7.08.1 of the BC Project Resolution shall not be eliminated or reduced except to the extent provided in Section 11.4.

**Section 11.4** (a) (1) In the event of a default by a BC Project Member and discontinuance of service to such defaulting BC Project Member, the Agency shall first offer to transfer to the non-defaulting BC Project Member and the Agency a pro rata portion (determined pursuant to the formula set forth in clause (f) (1) below) of the defaulting BC Project Member's BC Project Percentage which shall have been discontinued by reason of such default. Any portion of such BC Project Percentage of a defaulting BC Project Member which shall be declined by the non-defaulting BC Project Member or the Agency, as the case may be, shall be reoffered pro rata to the non-defaulting BC Project Member or the Agency, as the case may be, which accepted in full the first such offer.

(2) In the event of a default and discontinuance of service to the Agency, the Trustee shall first offer to transfer to the BC Project Members a pro rata portion (determined pursuant to the formula set forth in clause (f) (2) below) of the Agency's System BC Project Percentage which shall have been discontinued by reason of such default. Any portion of such System BC Project Percentage which shall be declined by a BC Project Member shall be reoffered pro rata to the BC Project Member which accepted in full the first such offer.

(b) In the event less than all of a defaulting BC Project Member's BC Project Percentage or the Agency's System BC Project Percentage, as the case may be, shall be accepted pursuant to clause (a) of this Section by the non-defaulting BC Project Members and/or the Agency, as the case may be, the Agency, in the case of a defaulting BC Project Member, and the Trustee, in the case of a default by the Agency, shall use its reasonable best efforts to sell the remaining portion of a defaulting BC Project Member's BC Project Percentage or the remaining portion of the System BC Project Percentage, as applicable, to any person, firm, association or corporation, public or private; provided, however, that the Agency or the Trustee, as the case may



be, shall make no such sales in such amounts, for such periods of time and under such terms and conditions as will adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds of any series the interest on which is intended to be so excluded. The agreement for such sale shall contain such terms and conditions as will not adversely affect the security for the Bonds afforded by the BC Project Agreement, in the case of a defaulting BC Project Member, and the BC Project Resolution, in the case of the Agency, including provisions for the discontinuance of service upon default, and as are otherwise acceptable to the Agency, in the case of a defaulting BC Project Member, or the Trustee, in the case of a default by the Agency. In the event of a default and discontinuance of service under any agreement for such sale, the share sold pursuant to such agreement shall be offered and transferred as provided for defaulting BC Project Members in this Section.

(c) In the event that less than all of a defaulting BC Project Member's BC Project Percentage or the Agency's System BC Project Percentage, as the case may be, shall be accepted pursuant to clause (a) of this Section by the non-defaulting BC Project Members and/or the Agency, as the case may be, or sold pursuant to clause (b) of this Section, the Agency, in the case of a default by a BC Project Member, and, in the case of a default by the Agency, the Trustee shall transfer, on a pro rata basis (based on the respective BC Project Percentage of the BC Project Members and, in the case of the Agency, on the basis of its System BC Project Percentage), to all other non-defaulting BC Project Members and the Agency, if not in default, the remaining portion of such defaulting BC Project Member's BC Project Percentage or the System BC Project Percentage, in the case of an Agency default; provided, however, that in no event shall any transfer of any part of a defaulting BC Project Member's BC Project Percentage or the System BC Project Percentage, in the case of an Agency default, pursuant to this clause (c) result in a transferee BC Project Member or the Agency as transferee having a BC Project Percentage or, in the case of the Agency, a System BC Project Percentage in excess of 125% of its BC Project Percentage, in the case of the non-defaulting BC Project Member, or the System BC Project Percentage, in the case of the Agency, in effect on the Effective Date.

(d) Any portion of the BC Project Percentage of a defaulting BC Project Member or the System BC Project Percentage of the Agency, in the case of an Agency default, transferred pursuant to this Section to a non-defaulting BC Project Member or the Agency shall become a part of and shall be added to the BC Project Percentage of each transferee BC Project Member and, in the case of the Agency as a transferee, to the System BC Project Percentage, and the transferee BC Project Member or the Agency as transferee shall be obligated to pay for its BC Project Percentage and, in the case of the Agency, its System BC Project Percentage, increased as aforesaid, as if the BC Project Percentage of the transferee BC Project Member or, in the case of the Agency as transferee, the System BC Project Percentage, increased as aforesaid, had been stated originally as the BC Project Percentage of the transferee BC Project Member in the applicable BC Project Agreement or, in the case of the Agency as transferee, its System BC Project Percentage in the BC Project Agreements.

(e) In the event that less than all of a defaulting BC Project Member's BC Project Percentage or the System BC Project Percentage, in the case of an Agency default, shall be sold or transferred to a non-defaulting BC Project Member and/or the Agency, as the case may be, pursuant to this Section, the Agency or the Trustee in the case of an Agency default shall use its reasonable best efforts to sell the remaining portion of a defaulting BC Project Member's BC

Project Percentage or, in the case of the Agency, its System BC Project Percentage on such terms and conditions as are acceptable to the Agency or the Trustee, as the case may be, to any person, firm, association or corporation, public or private; provided, however, that the Agency or the Trustee, as the case may be, shall make no such sales in such amounts, for such periods of time and under such terms and conditions as would adversely affect the exclusion from gross income for federal income tax purposes of the Bonds of any series the interest on which is intended to be excluded. A defaulting BC Project Member and/or the Agency, in the case of an Agency default, as the case may be, shall remain liable under its BC Project Agreement or the BC Project Resolution, as applicable, in all events, except that the obligation of the defaulting BC Project Member to pay the Agency or the Agency to make required deposits pursuant to Section 708.1 of the BC Project Resolution shall be reduced to the extent that payment shall be received by the Agency for that portion of a defaulting BC Project Member's BC Project Percentage or System BC Project Percentage in the case of an Agency default transferred or sold pursuant to this Section.

(f) (1) In the case of a defaulting BC Project Member, the pro rata amount of the non-defaulting BC Project Member's and the Agency's right of first refusal under this Section 11.4 shall be determined as follows: the non-defaulting BC Project Member's BC Project Percentage and the Agency's System BC Project Percentage divided by the sum of the BC Project Percentage of the non-defaulting BC Project Member electing to exercise its right of first refusal and the System BC Project Percentage of the Agency if the Agency elects to exercise its right of first refusal.

(2) In the case of an Agency default, the pro rata amount of the BC Project Members' right of first refusal under this Section 11.4 shall be determined as follows: the Project Members' BC Project Percentage divided by the sum of the BC Project Percentage of the BC Project Members electing to exercise their right of first refusal.

**Section 11.5** In response to any default by the Agency under any covenant, agreement or obligation of this Agreement, the City shall not have the right to terminate this Agreement; provided, however, that if no Bonds are Outstanding under the Bond Resolution and, subject to the cure periods contained in Section 11.3, the City shall have the right to terminate this Agreement in response to any default by the Agency under this Agreement. In enforcement of any right under this Agreement, the City may bring any suit, action, or proceeding in law or in equity, including, without limitation, mandamus and action for specific performance as may be necessary or appropriate to enforce any covenant, agreement, or obligation to make payment for which provision is made in this Agreement against the Agency.

**Section 11.6** Notwithstanding any provision to the contrary contained in this Agreement, the Parties acknowledge and agree that the Agency shall not be liable for monetary damages to the City arising from or in connection with any reports, notices, certificates, documents, information or data of any kind or nature (whether or not prepared by or on behalf of the Agency) provided to the City pursuant to or in connection with this Agreement.



## ARTICLE XII REPRESENTATIONS, WARRANTIES AND COVENANTS

**Section 12.1** The Agency hereby makes the following representations, warranties and covenants to the City:

- (a) the Agency is a governmental entity and body public and corporate duly organized, validly existing and in good standing under the laws of the State of Minnesota, and has the legal power to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement;
- (b) the execution, delivery and performance by the Agency of this Agreement have been duly authorized by all necessary action;
- (c) this Agreement constitutes the legal, valid and binding obligation of the Agency, enforceable in accordance with its terms;
- (d) there is no pending, or to the knowledge of the Agency, threatened action or proceeding affecting the Agency before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof;
- (e) the Agency will, or will cause SMMPA Wisconsin, to pursue reasonably available cost sharing or revenue recovery arrangements from MISO arising from the BC Project Interest; provided that the Agency will not take or omit to take any action in respect of any such arrangements that would prejudice in any material respect to each other the BC Project or any other transmission projects owned by the Agency; and
- (f) the Agency will establish, maintain and collect such rates, fees and charges for the electric service provided to its members so as to provide, together with other sources of revenue, revenues at least sufficient to enable the Agency to make all payments required to be made by it under the BC Project Agreements.

**Section 12.2** The City hereby makes the following representations, warranties and covenants to the Agency:

- (a) the City is a municipal corporation duly created and validly existing pursuant to the Constitution and statutes of the State of Minnesota and its “governing body” (as defined in Minnesota Statutes, Chapter 453) is the City Council of the City, and has the legal power to enter into this Agreement and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Agreement;

- (b) the execution, delivery and performance by the City of this Agreement have been duly authorized by all necessary action;
- (c) this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms;
- (d) there is no pending, or to the knowledge of the City, threatened action or proceeding affecting the City before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof;
- (e) the City will establish, maintain and collect such rates, fees and charges for the electric service of its electric utility system so as to provide revenues at least sufficient to enable the City to make all payments required to be made by it under this Agreement and any other agreements with respect to its electric utility;
- (f) the obligations of the City to make payments under this Agreement shall be limited to the obligation to make payments from revenues of its electric utility system, or other integrated utility system of the City to which the electric utility system is a part, and other funds of such system legally available therefor. All payments made by the City pursuant to this Agreement shall constitute operation and maintenance expenses of its electric utility system. In no event shall the City be required to make payments under this Agreement from tax revenues. The City shall not issue any evidence of indebtedness with a lien on electric system revenues that is prior to the payment of operating and maintenance expenses;
- (g) the City covenants to maintain its electric system in good repair in accordance with Prudent Utility Practice, to cooperate with the Agency, and to keep accurate records and accounts;
- (h) The City shall not sell, lease or otherwise dispose of all or substantially all of its electric system except on 90 days' prior written notice to the Agency and, in any event, shall not so sell, lease or otherwise dispose of the same unless the following conditions are met: (i) the City shall assign this Agreement and its rights and interest hereunder to the purchaser or lessee of the electric system and such purchaser or lessee shall assume all obligations of the City under this Agreement; (ii) if and to the extent necessary to reflect such assignment and assumption, the Agency and such purchaser or lessee shall enter into an agreement supplemental to this Agreement to clarify the terms on which benefits relating to the City's BC Project Percentage are to be sold hereunder by the Agency to such purchaser or lessee; (iii) the long-term, unenhanced, senior lien debt of such purchaser or lessee shall comply with the ratings requirements set forth in Section 9.4 (b) hereof; and (iv) the Agency shall by resolution determine (which determination shall not be unreasonably withheld) that such sale, lease or

other disposition will not adversely affect the value of this Agreement as security for the payment of Bonds and adversely affect the exclusion from gross income for federal income tax purposes of the Bonds of any series the interest on which is intended to be excluded;

- (i) the City shall not operate its system in any manner or for any purpose, or take or omit to take any action nor shall it consent to or approve the taking of any action which would, either alone or in conjunction with any other similar actions by the City or other BC Project Members, in the opinion of the Agency, adversely affect the exclusion from gross income for federal income tax purposes of the interest on the Bonds of any series the interest on which is intended to be so excluded. In furtherance thereof, the City shall provide information reasonably requested by the Agency regarding compliance with the Code, including providing an appropriate certification that it has complied fully with the provisions of this tax covenant; and
- (j) the City's electric utility system shall be deemed to be a part of an integrated utility system for purposes of clause (f) above, if the revenues of the electric utility system (i) are commingled with the revenues of one or more other utility systems owned by the City, or (ii) authorized to pay operating expenses of the City's electric system and one or more other utility systems owned by the City, or (iii) are pledged to secure bonds issued to finance one or more other utility systems owned by the City.

### ARTICLE XIII OPINION AS TO VALIDITY

**Section 13.1** Upon the execution and delivery of this Agreement, the City shall furnish the Agency with an opinion by an attorney or firm of attorneys to the effect that:

- (a) the City is a municipal corporation duly created and validly existing pursuant to the Constitution and statutes of the State of Minnesota and its "governing body" (as defined in Minnesota Statutes, Chapter 453) is the City Council of the City;
- (b) the City has full legal right and authority to enter into this Agreement and to carry out its obligations hereunder;
- (c) the resolutions of the City Council of the City and the Utility Board of Rochester Public Utilities approving this Agreement have been duly and lawfully adopted at meetings duly called and held at which quorums were present and acting throughout and such meetings were called pursuant to necessary public notice;
- (d) the City Council of the City and the Utility Board of Rochester Public Utilities duly approved this Agreement and its execution and delivery on behalf of the City; this Agreement has been duly authorized, executed and

delivered by the appropriate officers of the City; and, assuming that the Agency has all the requisite power and authority to execute and deliver, and has duly authorized, executed and delivered, this Agreement, this Agreement constitutes the legal, valid and binding obligation of the City in accordance with its terms subject, however, to the effect of, and to restrictions and limitations imposed by or resulting from, bankruptcy, insolvency, moratorium, reorganization or other similar laws affecting creditors' rights generally. No opinion need be rendered as to the availability of any particular remedy;

- (e) the execution and delivery of this Agreement by the City, the performance by the City of its obligations hereunder and the consummation of the transactions contemplated herein do not and will not contravene any existing law or any existing order, injunction, judgment, decree, rule or regulation of any court or administrative agency having jurisdiction over the City or its property or result in a breach or violation of any of the terms and provisions of, or constitute a default under, any existing bond resolution, indenture, mortgage, deed of trust or other agreement to which the City is a party or by which it or its property is bound;
- (f) all approvals, consents or authorizations of, or registrations or filings with, any governmental or public agency, authority or person required on the part of the City in connection with the execution, delivery and performance of this Agreement have been obtained or made; and
- (g) to the knowledge of such attorney or firm of attorneys after due inquiry, there is no litigation or other proceedings pending or threatened in any court or other tribunal of competent jurisdiction (either State or Federal) questioning the creation, organization or existence of the City or the validity, legality or enforceability of this Agreement.

#### **ARTICLE XIV COOPERATION**

The City will promptly furnish such information as may be reasonably requested from time to time in order to carry out more effectively the intent and purpose of this Agreement, or as may be reasonably necessary and convenient in the conduct of the operations of the Agency. Without limiting the generality of the foregoing, the City shall, upon request, furnish to the Agency all such information, certificates, financial statements, opinions of counsel (including the opinion required by Article XIII hereof), official statements and other documents as shall be reasonably necessary in connection with financings of the Agency. The City also shall provide the Agency with any and all information required by the Agency to comply with Rule 15c-2-12 of the regulations of the Securities and Exchange Commission (the "SEC") or any other rule or regulation promulgated by the SEC or similar governmental body in connection with disclosure requirements relating to municipal securities such as the Bonds.

## ARTICLE XV MISCELLANEOUS

**Section 15.1** The rights and obligations of the Parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Minnesota, without regard to conflicts of law doctrines.

**Section 15.2** EACH OF THE PARTIES WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS AGREEMENT AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

**Section 15.3** Unless otherwise expressly provided for in this Agreement, all communications and notices to a Party in connection with this Agreement shall be in writing, by facsimile or by email, and any such notice shall become effective (a) upon personal delivery thereof, including by overnight mail or next Business Day or courier service, (b) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, (c) in the case of notice by facsimile, upon transmission thereof, provided that in addition to such transmission a confirmation copy of the notice is also provided promptly by either of the methods set forth in clause (a) or (b) above, or (d) in the case of email, upon transmission thereof, provided that in addition to such transmission a confirmation copy of the notice is also provided by either of the methods set forth in clause (a) or (b) above. All notices provided by the means described in clauses (a), (b), (c) or (d) above shall be addressed as follows, or to such other address as any Party may designate by written notice to the other Parties.

For notice to the Agency:

Southern Minnesota Municipal Power Agency  
500 First Avenue SW  
Rochester, MN 55902-3303  
Telephone: (507) 285-0478  
Facsimile: (507) 292-6414  
Email: dp.geschwind@smmpa.org  
Attention: David Geschwind, Executive Director and CEO

For notice to the City:

The City of Rochester  
201 Fourth Street SE  
Rochester, MN 55904-3708  
Telephone: (507) 328-2900  
Facsimile: (507) 328-2901  
Attention: City Clerk

Rochester Public Utilities  
 4000 East River Road NE  
 Rochester, MN 55906-2813  
 Telephone: (507) 280-1540  
 Facsimile: (507) 280-1542  
 Attention: General Manager

**Section 15.4** This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

**Section 15.5** Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law; but if any provision of this Agreement shall be prohibited by or deemed invalid under any applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

**Section 15.6** This Agreement shall be binding upon the Parties and their respective successors and permitted assigns.

**Section 15.7** Except as expressly provided herein, none of the provisions of this Agreement are intended for the benefit of any Person other than the Parties, their respective successors and permitted assigns.

**Section 15.8** This Agreement states the rights of the Parties with respect to the transactions contemplated by this Agreement and supersedes all prior agreements, oral or written, with respect thereto.

**Section 15.9** Section headings and the table of contents used in this Agreement (including headings used in any schedules, addenda annexes and/or exhibits attached hereto) are for convenience of reference only and shall not affect the construction of this Agreement.

**Section 15.10** Any and all exhibits and addenda attached hereto, together with any attachments referenced therein, are incorporated herein by reference and made a part hereof.

**Section 15.11** No waiver by either Party of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature. Any delay, less than any applicable statutory period of limitations, in asserting or enforcing any rights under this Agreement shall not be deemed a waiver of such rights. Failure of either Party to enforce any provisions hereof shall not be construed to waive such provision, or to affect the validity of this Agreement or any part thereof, or the right of the Party thereafter to enforce each and every provision thereof.

**Section 15.12** Any intention to create a joint venture or partnership relation between or among the Parties is hereby expressly waived.

**Section 15.13** Except for Articles Eight, Ten and Eleven, Section 7.3, and Articles Five and Six (to the extent applicable to obligations arising prior to termination), which shall survive termination of this Agreement, and except as otherwise expressly provided in this Agreement, the

representations, warranties and obligations of each Party contained in this Agreement shall not survive the termination of this Agreement either in its entirety or as to a particular Party in accordance with its terms.

**Section 15.14** Each Party shall promptly and duly execute and deliver such further documents and assurances for and take such further actions reasonably requested by the other Parties, all as may be reasonably necessary to carry out the purposes of this Agreement.

[The next page is the signature page.]



IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed and delivered under seal by its duly authorized representative as of the date set forth below.

SOUTHERN MINNESOTA MUNICIPAL POWER AGENCY

By: \_\_\_\_\_

Name: David P. Geschwind

Title: Executive Director and CEO

Dated: \_\_\_\_\_

CITY OF ROCHESTER, MINNESOTA

By: \_\_\_\_\_

Name: Kim Norton

Title: Mayor

Attest: \_\_\_\_\_

Name: Anissa Hollingshead

Title: City Clerk

Approved

as to Form: \_\_\_\_\_

Name: Jason Loos

Title: City Attorney

Dated: \_\_\_\_\_

ROCHESTER PUBLIC UTILITIES

By: \_\_\_\_\_

Name: Mark Kotschevar

Title: General Manager

Dated: \_\_\_\_\_

## Schedule A to Badger Coulee Transmission Project Agreement

### Annual Administrative and General Costs

This Schedule A is attached to and is a part of this Badger Coulee Transmission Project Agreement. Capitalized words not otherwise defined in this Schedule A shall be as defined in the Agreement to which this Schedule A is attached.

Annual Administrative and General Costs are intended to be Agency costs associated with the ongoing administration of the terms of the BC Project Entitlements Agreement and this Agreement that are not either recovered as Monthly Project Costs (other than under clause (e) of such definition) or recovered through allocation of costs through the MISO tariff, as such tariff may be revised from time to time. These Annual Administrative and General Costs include labor, benefits, general non-labor costs allocated by employee, and general non-employee related costs incurred in operating a business.

Annual Administrative and General Costs shall be calculated generally in the form of the spreadsheet attached hereto as Exhibit 1 to this Schedule A to this Agreement. The method of determining costs reasonably allocable as Annual Administrative and General Costs is as follows:

A&G Labor Allocated to BC Project Interest – An allocation of a share of the annual labor and benefits budget for Agency employees reasonably expected to engage in work activities associated with the BC Project Interest. The allocation is determined by the ratio of estimated hours per month a specified number of employees in specific departments are expected to engage in BC Project Interest related work, times 12, divided by the total annual work hours. This ratio is then multiplied by the annual labor and benefits budget associated with the percentage of employees in each department performing BC Project Interest work. Note that, at the time of execution of this Agreement, costs associated with employees of the Agency in the Operations department are not included in the calculation. This is because transmission-related Operations costs are currently collected through the MISO tariff. If, in the future, Operations costs associated with the BC Project Interest are no longer collected through the MISO tariff, this methodology shall be modified to include allocable Operations employee costs.

Other A&G Items Allocated by Employee – In addition to direct labor and benefits, certain other costs are allocated and budgeted as general costs associated with employees. These costs are allocated to the BC Project Interest on the same percentage basis as A&G Labor Allocated to the BC Project Interest. Note that, at the time of execution of this Agreement, Other A&G Items Allocated by Employee include General Legal not directly billed to the BC Project Interest. This is because the Agency engages general counsel services under a retainer arrangement with an outside law firm, and it is reasonably expected that general legal services will be required throughout each year allocable to the BC Project Interest. If, in the future, the Agency retains general counsel services through an in-house attorney, General Legal allocated under Other A&G Items Allocated by Employee will be deleted and the A&G Labor Allocated to BC Project Interest will be increased to reflect the allocable costs of in-house legal counsel.

Other A&G Items Allocated by Estimated Gross Plant Allocator – Certain other general costs of doing business are not employee-related costs and are more reasonably allocated to the BC Project Interest as the ratio of the BC Project Interest gross plant investment to the Agency's total gross plant investment.

Southern MN Municipal Power Agency  
Badger Coulee A & G Adder Calculation  
Based on 2019 SMMMPA A&G Budget

Exhibit 1 to Schedule A  
Badger Coulee Transmission Project Agreement

A&G Labor Allocated to BC Based on Hours per Month per Employee Time Projected to be Spent on BC Tasks

SMMMPA A&G Departments (A)	Total SMMMPA Employees by Department (B)	Department Employees Allocated to BC (C)	% of Department (C/B) (D)	Hours/Month/ Employee Allocated to BC (E)	% of Annual time for BC/Employee (E*12/2080) (F)	SMMMPA Labor & Benefits per 2019 Budget (G)	Labor & Benefits Based on % of Department (G*D) (H)	Labor & Benefits for BC based on % of Time (H*F) (I)
(1) Administration	2	1.5	75.00%	4	2.31%	\$ 532,454	\$ 399,341	\$ 9,216
(2) Operations	27	0	0.00%	4	2.31%	4,952,212	-	-
(3) Finance	11	7	63.64%	4	2.31%	1,674,751	1,065,751	24,594
(4) Corporate Dev.	8	2	25.00%	4	2.31%	1,609,190	402,297	9,284
(5) Total	48	10.5				\$ 8,768,607	\$ 1,867,389	\$ 43,094

Other A&G Items Allocated by Employee

(J)	2019 SMMMPA Budget (K)	Amount per SMMMPA Employee (K/B, Line 5) (L)	Other A&G for BC based on % of Time (L*E, Line 5, *F) (M)
(6) Travel, Training, and Conferences	\$ 377,815	\$ 7,871	\$ 1,907
(7) Information Technology	299,000	6,229	1,509
(8) Supplies & Equipment	127,900	2,666	646
(9) General Legal (not directly billed to BC)	156,000	3,250	788
(10) Miscellaneous	134,800	2,808	680
(11) Total	\$ 1,095,595		\$ 5,531

Other A&G Items Allocated by Estimated Gross Plant Allocator

(N)	2019 SMMMPA Budget (O)	Plant Allocator: BC Investment/ 2017 SMMMPA/ Plant (Adjusted) (P)	Other A&G for BC based on Plant Allocator (O*P) (Q)
(12) General Liability Insurance	\$ 415,000	4%	\$ 16,600
(13) Building Maintenance	80,000	4%	3,200
(14) Utilities	111,340	4%	4,454
(15) Total	\$ 606,340		\$ 24,254
(16) Grand Total Badger Coulee Allocation			\$ 72,878

Notes: Column C, Operations labor and benefits recovered in Attachment O.

Column E amounts of 4 hours based on estimate of time for BC per month per employee.

Column P is based on BC investment of \$29.0 million divided by 2017 Year End SMMMPA plant investment + CWIP + 12.5 million for the remainder of the BC project.

**Schedule B to  
Badger Coulee Transmission Project Agreement**

Entitlement Share in the BC Project: 6.5%

BC Project Interest: 100%

BC Project Percentage:

City of Rochester: 43%

City of Austin: 12%



## RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve and request Common Council approval for the Mayor and the City Clerk to execute the:

Badger-Coulee Transmission Project Agreement

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 18th day of December 2018.

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President

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Secretary

## FOR BOARD ACTION

Agenda Item # (ID # 9941)

Meeting Date: 12/18/2018

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**SUBJECT: Customer Service Center Building Expansion Project - Scope Addition**

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**PREPARED BY: Patricia Bremer**

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ITEM DESCRIPTION:

RPU began a project to expand and renovate the existing RPU Customer Service Center in 2015. After preliminary design and estimating efforts in 2016, The RPU Board approved this project at total of \$15.3M. Construction contracts were approved in late 2017, and over the course of the last year, RPU staff has worked diligently with our consultant and contractor team to complete this project.

The base bid scope of work included resurfacing the existing Garage concrete floor slab, and maintaining the existing electric under-floor heating system that runs throughout the space. As the contractors prepared to complete this work, a number of questions surfaced regarding the long term viability of resurfacing, that resulted in a suggested alternative approach. After reviewing the options and pricing, we would like to proceed with a different approach of replacing this existing floor slab and electric heating system in its entirety. By installing a new concrete floor slab and hydronic heating system, we will remove any doubts or concerns related to the life expectancy of the existing floor slab and heating system, and will match the design of the floor and systems installed in the adjacent new Garage expansion area. This will match the life cycle and long term expectancy of this space, and will be a better end product for RPU's long term usage of this facility. The additional cost for this increased work scope totals \$458,000.

To date, all project costs total nearly \$10.9M. We are requesting to increase the approved contract amount by \$458,000, so we can increase the work scope to include this alternative approve to improving the existing Garage floor and heating system.

Partially as a result of this work scope increase, the final completion date of the project has been extended to March, 2019. The majority of the base bid work will be completed according to the original construction schedule, and will be substantially complete by December 28, 2018. RPU staff will continue to occupy the facility as construction phases are completed. We have temporary plans in place to manage any inconveniences to RPU staff and daily operations that result from this work scope change and delay in project completion.

UTILITY BOARD ACTION REQUESTED:

Staff requests approval of an additional construction scope amount not to exceed \$458,000 for



## FOR BOARD ACTION

**Agenda Item #**      **(ID # 9941)**

**Meeting Date: 12/18/2018**

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the replacement of existing garage floor and heating.



## RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve a change order to the construction contracts with Knutson Construction Services for:

Replacement of the Existing Garage Floor and Heating

The amount of the change order not to exceed FOUR HUNDRED FIFTY EIGHT THOUSAND AND 00/100 DOLLARS (\$458,000.00).

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 18th day of December, 2018.

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President

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Secretary

## FOR BOARD ACTION

Agenda Item # (ID # 9883)

Meeting Date: 12/18/2018

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**SUBJECT: Authorized Depositories**

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**PREPARED BY: Peter Hogan**

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**ITEM DESCRIPTION:**

Each year the Board must pass a resolution authorizing the depositories for Utility monies. The Utility uses the same depositories as the City and follows the investment policies established by the City. The attached resolution shows the depositories to be used by RPU for investment activities for the calendar year 2019.

During 2017, RPU conducted a bidding process for investment of the Bond Debt Service Funds and the unspent proceeds of the Bonds issued on February 15, 2017. The successful bidder was Bayerische Landesbank. Bayerische Landesbank has been added to our authorized depositories resolution for 2019.

**UTILITY BOARD ACTION REQUESTED:**

The Board is requested to approve the attached resolution.



## RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, that the following banks, authorized to do business in Minnesota, are the designated depositories for the demand deposit accounts and temporary investment of funds of Rochester Public Utilities, City of Rochester, Minnesota, within the limits established by the City of Rochester, for the term commencing January 1, 2019 through the 31<sup>st</sup> day of December, 2019.

US Bank

Wells Fargo

Bayerische Landesbank

The above depositories, and any added during the term by the City Finance Director, shall pay interest at such rates or rates, per annum, as may be mutually agreed upon the Rochester Public Utilities and the respective depository at the time such deposits and investments are made.

The depository shall pay on demand all deposits subject to payment on demand, with accrued interest, and pay on demand all time deposits with accrued interest, at or after maturity.

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 18th day of December, 2018.

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President

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Secretary

## FOR BOARD ACTION

Agenda Item # (ID # 9915)

Meeting Date: 12/18/2018

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**SUBJECT: Board Member Expenses Policy**

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**PREPARED BY: Mark Kotschevar**

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ITEM DESCRIPTION:

Attached is a revised Board Member Expenses policy for your review and comment. Given the majority of the old policy is now covered under existing City policy I decided to draft a new clean version rather than try and red line the old policy. I have attached the current City policy on Travel - Meal Expense Reimbursement referenced in the new draft. I also attached the existing policy for reference. This draft has been circulated to the policy committee members and the city attorney for review and comment. Suggested changes from that group have been incorporated into this draft. If the Board is in agreement, we are ready to proceed with approval.

UTILITY BOARD ACTION REQUESTED:

Approve the attached Board Member Expenses Policy

**ROCHESTER PUBLIC UTILITIES  
BOARD POLICY STATEMENT**

**POLICY SUBJECT:** Board Member Expenses

**POLICY OBJECTIVE:**

The Board's objective is to ensure that expenses of Board members, incurred in connection with authorized business or educational activities, are paid or reimbursed uniformly and in accordance with City policy.

**POLICY STATEMENT:**

1. Rochester Public Utilities (RPU) will pay or reimburse a Board member for actual travel and out-of-pocket expenses incurred in connection with authorized business or educational activities in accordance with the City's Travel/Meal/Refreshment Expense Reimbursements policy.
2. Board members are expected to serve on their own time. RPU will not compensate a Board member or the Board member's employer for personal time required in the conduct of RPU business.
3. The General Manager shall approve the Board member expense records which are submitted for reimbursement.

<b>RELEVANT LEGAL AUTHORITY:</b>	Rochester City Charter Chapter XV
<b>EFFECTIVE DATE OF POLICY:</b>	June 10, 1986
<b>DATE OF POLICY REVIEW:</b>	December 20, 2011, December 7, 2018
<b>POLICY APPROVAL:</b>	December 18, 2018

\_\_\_\_\_  
Board President

\_\_\_\_\_  
Date

## Travel/Meal/Refreshment Expense Reimbursements

### Purpose

The Minnesota Constitution and various Minnesota appellate court cases require the City of Rochester and all other government entities to spend public funds consistent with the "Public Purpose Doctrine."

The "Public Purpose Doctrine" permits a governmental entity to expend public funds if the primary purpose is related to the operational activities of the city, will benefit the community as a whole, and does not primarily benefit a private interest. This policy provides authorization to expend public funds for certain organizational activities pertaining to employee development, employee/council member overnight travel, the recruitment and selection process, community outreach, payment of work-related expenses (lodging and meal expense) and other miscellaneous public purpose expenditures related to the operation and function of the city.

The City of Rochester adopts this policy addressing travel, meal, and refreshment expense so as to comply with the Public Purpose Doctrine.

### Prior Approval

All out-of-state travel by the Mayor or City Council members must be for the purpose of official City business and requires pre-approval action by the Council even when such travel expenses were documented in the annual budget.

Business travel by all other City employees and eligible job applicants shall receive prior supervisory approval (by the City Administrator for Department Heads; by a Department Head, or his/her designee as appropriate for all others).

### Advance for Expenses/Employees Only

An advance (minimum amount is \$100.00) for expected lodging, meals and related costs may be requested by the employee from Finance by completing a voucher with an attached "Advance Expense Allowance Request" signed by the appropriate supervisor.

This section of the policy does not apply to job candidates; they may only be reimbursed for actual expenses incurred as part of the interview process.

### Overnight Travel Expense Reimbursement – Transportation,



## Lodging and Miscellaneous

Receipts are generally required for all travel costs including shuttle service or taxi fare, parking ramp fees, lodging and program materials. Receipts are not required for the travel costs of highway tolls or other incidentals where it is similarly difficult to obtain a receipt. Meals and incidentals are addressed separately in item C below.

### A. Transportation

**Airfare:** If airline travel is utilized, the City will pay the cost of a round-trip coach airline fare. Any benefits received from airline frequent flyer programs or other airline travel credit programs must be consistent with Minnesota State Law. A copy of the ticket receipt is required for reimbursement.

**Rental Vehicles:** A copy of all vehicle rental documents is required. The cost of renting a vehicle at the employee's travel destination will only be covered up to the amount of the cost for a round-trip airport shuttle or taxi fare to the employee's lodging plus the cost of taxi fare from/to the hotel, to/from the training facility, or other work-related venues. When applicable, employees must accept the car rental agency's insurance coverage (if offered) as the City's liability coverage cannot be utilized if this option is waived.

**Personal Vehicle Use:** If the employee's personal vehicle is driven, mileage reimbursement is paid at the mileage rate that equals and does not exceed the Federal standard mileage rate established by the Internal Revenue Service (IRS). Reimbursement for use and parking charges of a personal vehicle cannot exceed the cost of taking commercial air transportation to the destination plus the cost of local transportation fees. If an employee chooses to drive a personal vehicle or travel by train to the business destination rather than utilizing airline travel, he/she must use vacation time for hours beyond one business day (8 hours) travel time to the destination and one business day travel time (8 hours) to return to Rochester.

### B. Lodging

The City will reimburse for the standard room rate at conference hotels. If there is an incremental nightly charge by the hotel for additional non-City travelers, that charge must be covered or reimbursed by the employee.

Long-distance phone call charges will be reimbursed if they are incurred regarding a City business matter. One "safe arrival" call and/or "change of plans" call will also be reimbursed. Reasonable internet access and service charges related to City business will also be reimbursed.

If an extended stay ensures a less expensive airline fare, the employee may request approval for an extra night(s) of lodging and meal expenses as long as the savings on the airfare is more than the extra cost for lodging and meal expenses.

The City does not reimburse airline or in-room movie charges; cost of personal reading materials; or expenses related to a non-City employee accompanying the employee. All costs related to spouse or other guest travel must be fully covered by the employee.

Staying with a friend or relative is not a reimbursable expense. An employee, traveling on behalf of the City and choosing to stay with a friend or relative, at or near his/her business destination, may not request lodging expense reimbursement.

No receipts are required for related lodging gratuities, such as baggage handling or maid service, of generally accepted (reasonable) amounts.

### **C. Travel Expense Reimbursement – Meals and Incidental Expenses (M&IE)**

When employees are not traveling out of town, meal expenses will only be reimbursed as noted in the Non-travel Food and Beverage Reimbursements Section below. For overnight, business-related travel, the City will allow two methods for employees to be reimbursed for meals and incidental travel expenses. All lodging and meal expenses require actual receipts for reimbursement. A Travel Reimbursement Form must be submitted to receive reimbursement.

Subject to department head approval, for each entire travel event, employees must choose from one of the following reimbursement methods:

- Per Diem rate for meals and incidental expenses by IRS-designated high-cost/low-cost city of travel, or
- Detailed receipts are required for actual costs up to the maximum daily limit

Under IRS rules, tax-free reimbursements for meal expenses can be made only for out-of-town trips that involve an overnight stay. See *Non-Travel Food/Beverage Reimbursement Section* for business meal expenses or travel not involving an overnight stay.

#### **a. IRS Per Diem Rate Method for High Cost/Low Cost Cities**

An employee may choose reimbursement for meals and incidental expenses under the IRS Per Diem rate in existence at the time of travel. No receipts are required under this method because the IRS reasonably assumes that this limited amount was spent on meals and incidental expenses. Employees will receive reimbursement no more than as follows:

1. For travel to the IRS-designated "high-cost cities" - the IRS-posted "high-cost" rate (currently \$68/day).
2. For travel to all other cities - the IRS-posted "low-cost" rate (currently \$57/day).
3. Per IRS regulations, a maximum of 75 percent of the amounts listed in Nos. 1 or 2 above is allowed for the days of travel that includes the departure date and the last day of travel.
4. Substantiation of expense under this method requires only documentation of dates and location of travel.

#### **b. Substantiated Actual Cost Up to Daily Limit Method**

After the travel has occurred, receipts are required to be submitted for meal costs (restaurant or room service meal charges) incurred up to \$100.00 (including gratuity) for each full day of travel for breakfast, lunch and dinner. Gratuity includes either the fixed amount determined by the restaurant, or an appropriate amount up to a maximum of 20%. The City does not reimburse the cost of any alcoholic beverages. The \$100.00 limit for meal costs may be adjusted periodically by the City Administrator in accordance with Internal Revenue Service (IRS) regulations on employer accountable travel expense plans.

The \$100.00 daily limit will be reduced when:

- The travel consumes only a portion of a given day (e.g., covers only lunch and dinner), and/or
- Meal or meals are included and provided in the conference registration fee.
- A meal or meals during travel qualify as a "business meal" expenditure under *Business Meal Expense Reimbursement* and is reimbursed through that method.

For those meals determined to be ineligible for reimbursement, the \$100.00 daily limit will be reduced by the appropriate amounts listed below:

Breakfast	\$20.00
Lunch	\$25.00
Dinner	\$55.00

The spending limit is subject to change administratively on a periodic basis according to changes in the CPI index that have occurred since adoption of this policy.

### **Non-Travel Food/Beverage Reimbursements**

**A.** The City will pay reasonable and/or necessary food and non-alcoholic refreshment expenses when:

1. The cost of a meal or refreshments is part of a structured agenda of an external conference, workshop, seminar, or meeting, and the employee is authorized to attend such event and the event topics relate to the official business of the City; or
2. A meeting is scheduled at a restaurant or dining establishment where the official participants (not including other guests or spouses) conduct City business; or
3. Refreshments are part of a department-sponsored meeting, conference or workshop and the majority of the participants are not City employees; or
4. Refreshments/meals are part of a job candidate interview meeting; or
5. The cost of refreshments, meals and other conference costs are part of a department-sponsored event, registration fees are charged and the majority of the participants are not City employees; or
6. The cost of refreshments or meals are part of a formal meeting that consists primarily of City employees when the refreshments or meals are an integral part of the formal meeting and are necessary to sustain the flow of the meeting, to retain the captive audience, and to assist the participation of those employees and attendees, but only if the meeting is one of the following:
  - a) A department-wide annual or quarterly staff meeting of all of its employees. The total cost shall not exceed \$20 per budgeted full-time employee per quarter, established by the Finance Department during the budget process. Expenditures exceeding this budgeted allotment shall require prior written approval of the City Administrator describing the event and the public purpose;
  - b) A department meeting scheduled over the lunch hour because there is no alternative time available during the workday;
  - c) A departmental senior management meeting;
  - d) A departmental staff meeting scheduled over the lunch hour (due to other schedule conflicts) for the purpose of discussing organizational business;
  - e) A department-wide annual or quarterly staff meeting for all managers; or

f) A structured training session, available to employees generally, but only if the training has been approved by the Department Head.

Except for structured training sessions, the meetings described above shall be held no more frequently than once each quarter. All meetings shall be scheduled to minimize inclusion of meals.

7. Refreshments or meals are provided during official meetings of the City Council or official meetings of City Council committees, City Charter Boards, task forces, work groups or advisory committees, provided the provision of refreshments or meals is necessary to sustain the flow of the meeting and to assist the participation of the attendees.

8. Refreshments or meal expenses incurred as part of a labor relations event (i.e. mediation session, arbitration hearings, preparation meetings, lengthy negotiation session, etc.).

9. Refreshments or meal expenses incurred as part of an unplanned emergency management or an extraordinary business event.

#### **B. Community Outreach**

With the approval of the City Administrator or a Charter Board, the City may pay reasonable expenses related to community and customer outreach and similar activities when the expenses are necessary to ensure the efficient operation of its governmental activities, or promote the availability and coordinated use of the services provided by the City to its residents, or which improve or promote the health, welfare and prosperity of its citizens.

## **Reimbursement Procedure**

**A.** The Non-Travel Food/Beverage Reimbursement Form must be completed by the employee seeking reimbursement within 30 days of the event and signed by his/her supervisor. The form will provide information for Finance staff to calculate the reimbursement incurred for the meal and gratuity expense of up to 20 percent or a fixed gratuity amount. Meal receipts and substantiating information, including the names of business meeting participants, reason for the meeting, and receipt(s) must be attached to this form.

**B.** If the employee received a travel advance and travel-related expenses were more than the advance, the employee will receive a check for the difference. If the employee's advance was greater than actual expenses, the employee should submit a check payable to the City of Rochester for the difference.



C. In the event an employee is unable to complete the business trip for unavoidable and/or emergency reasons and has already incurred registration cost, hotel expense, or other related expense(s), the City Administrator may approve the expense reimbursement if a letter explaining why the travel could not take place is submitted along with the expense reimbursement request.

In the event an employee is unable to provide a detailed receipt for a reimbursable expense, a Lost Receipt Form must be completed and submitted. This form will only be accepted once per year per employee.

## Job Candidates

In an effort to support the recruitment efforts of the City of Rochester, job candidates may be reimbursed for related travel expenses. To qualify for this reimbursement, candidates must travel from outside a 100-mile radius of the City and have been invited to interview for an exempt-level position vacancy. Should circumstances warrant such, an exception may be granted for a non-exempt candidate with the prior approval of the City Administrator and the Director of Human Resources.

Candidate expenses will be charged to the hiring department and may include: mileage incurred using a personal vehicle, airfare at the economy or coach rate, shuttle fares, taxi fares, parking fees, hotel/lodging expense for one evening (providing the accommodations are made by the City) and miscellaneous tips paid for service rendered. The procedures and supporting documentation for reimbursement of candidate expenses are the same as that required for City employees.

Reimbursement checks will be mailed directly to the job candidate.

Requests for procedural exceptions related to job candidates must be approved by the Human Resource Director with the understanding that such requests are reasonable and necessary.

## Requirement to Use Rochester International Airport

Rochester International Airport (RST) is an essential strategic economic asset for the City of Rochester, southeastern Minnesota, and adjacent regions of Iowa and Wisconsin. Air service is a critical element that must be integrated into regional economic development discussions such as Destination Medical Center (DMC) and Journey to Growth. National competition between communities for sustainable, reliable, and convenient air service has never been more intense. Regional businesses and community leaders must come together if they are to impact meaningful improvements in air service for the City.

The purpose of this policy is to support the use of air service at RST which works to invest in this important City resource.

If a City employee uses air transportation for travel pertaining to City business, the City employee must first explore the option of using RST as the airport for departure and arrival. If a flight through RST is available within three hours of travel time each way from those flights available through the Minneapolis/St. Paul Airport (MSP) or another local airport, and the cost of the RST flight is within \$200 of the lowest priced ticket at MSP or another local airport, the employee must fly out of and into RST. Any exception to this policy allowing the use of a non-RST flight must be authorized in advance by the City Administrator (for non-elected employees) or the Common Council (for elected employees).

Revised 12/19/05, 2/20/08, 3/1/10, 1/21/13, 2/18/15, 6/20/16

## ROCHESTER PUBLIC UTILITIES

## BOARD POLICY STATEMENT

POLICY SUBJECT: BOARD MEMBER EXPENSES

POLICY OBJECTIVE:

The Board's objective is to ensure that the expenses of Board members, incurred in connection with authorized business or educational activities, are paid or reimbursed uniformly and in accordance with sound public policy.

POLICY STATEMENT:

1. The RPU will pay or reimburse a Board member for the reasonable and actual travel and out-of-pocket expenses incurred in connection with authorized business or educational activities.
2. Board members are expected to serve on their own time. The RPU will not compensate a Board member or the Board member's employer for personal time required in the conduct of RPU business.
3. As public officials, Board members are expected to be fully accountable for the expenditure of public funds. For purposes of implementing this policy, "reimbursable expenses" include, but are not limited to the following:
  - a. Travel by personal car will be reimbursed at the currently allowed standard mileage rate as established by the Internal Revenue Service. Mileage reimbursement will be limited to travel by the most direct route.
  - b. Travel by air will be paid for or reimbursed based on the lowest available point-to-point coach class fare. Executive or first class travel is authorized only when other fare classes are not available and only with advance approval of the Board President.
  - c. When travel by personal car is elected in lieu of air travel, the total reimbursement may not exceed the lowest available coach class air fare between the same points of travel, unless the final destination is not served by a commercial air carrier.
  - d. Expenses for conference or seminar registrations, lodging, meals, and local transportation will be paid for or reimbursed at actual cost.

RESPONSIBILITIES:


1. Each Board member will keep an accurate accounting of all expenses incurred in connection with authorized business or educational activities of the Board. Expenses will be recorded and submitted for reimbursement using the form and administrative procedures which are in effect under current management policy.



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2. The Board President shall approve the Board member expense records which are submitted for reimbursement.
3. Each Board member is encouraged to make travel plans as far in advance as possible to maximize the opportunity for reduced fares, registration fees and lodging. Board members are also encouraged to make their travel arrangements through the General Manager's Secretary or designated alternate.

EFFECTIVE DATE OF POLICY: June 10, 1986

  
Board President

\_\_\_\_\_  
Date

Attachment: Board Member Expenses (9915 : Board Member Expenses Policy)



## RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve the:

Board Member Expenses Policy

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 18th day of December, 2018.

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President

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Secretary

## FOR BOARD ACTION

Agenda Item # (ID # 9914)

Meeting Date: 12/18/2018

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**SUBJECT: Board Member Attendance at Conferences and Meetings Policy**

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**PREPARED BY: Mark Kotschevar**

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**ITEM DESCRIPTION:**

Attached you will find a revised Board Member Attendance at Conferences and Meetings policy. Rather than try and red line the old policy I used it as the basis to draft this new clean version. I have attached the existing policy for reference. This draft has been circulated to the policy committee members and the city attorney for review and comment. Suggested changes have been incorporated into this draft. I also attached a copy of the Travel Authorization Request Form that is referenced in the policy. If the Board is in agreement, we are ready to proceed with approval.

**UTILITY BOARD ACTION REQUESTED:**

Approve the attached Board Member Attendance at Conferences and Meetings Policy

**ROCHESTER PUBLIC UTILITIES  
BOARD POLICY STATEMENT**

**POLICY SUBJECT:** Board Member Attendance at Conferences and Meetings

**POLICY OBJECTIVE:**

The Board's objective is to encourage Board member education and participation in conferences and meetings which support the Board member's role in governance, strategic direction, and policy.

**POLICY STATEMENT:**

1. The Board recognizes that its role in controlling, managing, and operating the Rochester Public Utilities (RPU) requires a sound understanding of the financial, strategic, and regulatory issues which impact the operation of its utility systems. Information on these and related issues is routinely available to the Board through conferences, meetings, short courses, and industry associations.
2. It is the policy of the Board to encourage attendance at and participation in such conferences, meetings, classes, and associations for education, interaction with Board members and representative from similar organizations, or as a designated representative of the RPU.
3. The Board may include funds, as recommended by the General Manager, in the annual operating budget for attendance by Board members at such conferences, meetings, short courses, and industry associations.
4. The General Manager shall keep the Board informed of conferences, meetings, short courses, and industry associations which may be of particular interest to Board members.
5. Board members wishing to attend conferences, meetings, and short courses shall complete the RPU Travel Authorization Request form for approval by the General Manager.

<b>RELEVANT LEGAL AUTHORITY:</b>	Rochester City Charter Chapter XV
<b>EFFECTIVE DATE OF POLICY:</b>	June 10, 1986
<b>DATE OF POLICY REVIEW:</b>	December 20, 2011, December 7, 2018
<b>POLICY APPROVAL:</b>	December 18, 2018

\_\_\_\_\_  
Board President

\_\_\_\_\_  
Date

# TRAVEL REQUEST AUTHORIZATION FORM

## Employee Information

Last Name:	Formal First Name:	Middle Initial:
<input type="text"/>	<input type="text"/>	<input type="text"/>
Department:	Budgeted	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

## Travel Information

Conference/Meeting Title	Conference Dates:
<input type="text"/>	<input type="text"/> to <input type="text"/>
Destination:	Travel Date:      Return Date:
<input type="text"/>	<input type="text"/> <input type="text"/>

### Arrangements Needed:

	Estimated Cost:	Actual Cost:	Manner of Payment:			
<input type="checkbox"/> Registration (513002)	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> PO	<input type="checkbox"/> Bill	<input type="checkbox"/> Employee	<input type="checkbox"/> Corporate Card
<input type="checkbox"/> Transportation Air (513001)	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> PO	<input type="checkbox"/> Bill	<input type="checkbox"/> Employee	<input type="checkbox"/> Corporate Card
<input type="checkbox"/> Transportation Ground (513001)	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> PO	<input type="checkbox"/> Bill	<input type="checkbox"/> Employee	<input type="checkbox"/> Corporate Card
<input type="checkbox"/> Rental Car (513001)	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> PO	<input type="checkbox"/> Bill	<input type="checkbox"/> Employee	<input type="checkbox"/> Corporate Card
<input type="checkbox"/> Lodging (513001)	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> PO	<input type="checkbox"/> Bill	<input type="checkbox"/> Employee	<input type="checkbox"/> Corporate Card
<input type="checkbox"/> Deposit on Lodging (513001)	<input type="text"/>	<input type="text"/>	<input type="checkbox"/> PO	<input type="checkbox"/> Bill	<input type="checkbox"/> Employee	<input type="checkbox"/> Corporate Card
<input type="checkbox"/> Meal Per Diem: (Complete Per Diem section below)	<input type="text" value="\$0"/>	<input type="text" value="\$0"/>	<input type="checkbox"/> PO	<input type="checkbox"/> Bill	<input type="checkbox"/> Employee	<input type="checkbox"/> Corporate Card

Total:

### This section to be completed by Business Services

#### Meal Per Diem Section:

☐ High Cost City:

Travel Days: \$51.00 x  Days

Full Days: \$68.00 x  Days

☐ Low Cost City

Travel Days: \$42.75 x  Days

Full Days: \$57.00 x  Days

Per Diem rates:

<https://www.irs.gov/pub/irs-drop/n-17-54.pdf>

#### Optional Information

Preferred Hotel:

Preferred Airline:

Frequent Flyer #:

☐ Employee Advance (Lodging+Meals):

Date Required (Acct Number:143001):

*Employee Advance checks will be processed prior to your trip departure date. Checks are always processed on a Thursday.*

## Personal Information / Notes

Emergency Contact:	Emergency Contact Phone Number:	Employee Phone Number:	Employee Birthdate (for flight purposes):
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
Notes:			
<input type="text"/>			
<input type="text"/>			
<input type="text"/>			

## Authorizations

Director (If expense is less than \$2,500)	Date	Supervisor/Manager (Required on all Travel Requests)	Date
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
General Manager (If expense is more than \$2,500 / not budgeted)	Date	EMPLOYEE SIGNATURE	Date
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

 File Attachment

 File Attachment

 File Attachment

## ROCHESTER PUBLIC UTILITIES

## BOARD POLICY STATEMENT

POLICY SUBJECT: BOARD MEMBER ATTENDANCE AT CONFERENCES AND MEETINGS

## POLICY OBJECTIVE:

The Board's objective is to encourage Board member education and participation in conferences and meetings which support the Board member's role as a policy-maker and appointed representative of the RPU. It is also the Board's intent to establish a uniform procedure for authorizing Board member attendance at functions which meet this policy objective.


## POLICY STATEMENT:


1. The Board recognizes that its role as the policy-making body of the RPU requires a sound understanding of the financial, technical, social, managerial, legal and regulatory issues which impact the operation of its utility systems. Information on these and related issues is routinely available to the Board through conferences, meetings, seminars and special short courses sponsored by reputable organizations and educational institutions. It is the policy of the Board to encourage attendance at and participation in such conferences and meetings for purposes of formal education, interaction with Board members and representatives of other similar organizations, or as a designated representative of the RPU.

## RESPONSIBILITIES:

1. Any Board member desiring to attend a conference, meeting, seminar or short course shall request authorization verbally or in writing to the Board President as far in advance of the event as possible. The Board President has full authority to grant the request and to approve the payment of registration, travel, and related expenses from the Public Utility Fund.
2. Board members are encouraged to submit written or oral reports and to disseminate information from conferences, meetings, seminars, or short courses to the Board upon their return.
3. The General Manager shall keep the Board informed of conferences, meetings, and educational opportunities which may be of particular interest to the Board member as a policy maker.
4. The Board shall, to the extent that it deems appropriate and upon the recommendation of the General Manager, provide funds in the annual operating budget of the Board for attendance by Board personnel at conferences, seminars and special courses.

EFFECTIVE DATE OF POLICY: June 10, 1986

  
Board President

  
Date

Attachment: 07 Board Member Attendance at Conferences and Meetings (9914 : Board Member Attendance at Conferences and Meetings



## RESOLUTION

BE IT RESOLVED by the Public Utility Board of the City of Rochester, Minnesota, to approve the:

Board Member Attendance at Conferences and Meetings Policy

Passed by the Public Utility Board of the City of Rochester, Minnesota, this 18th day of December, 2018.

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President

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Secretary