RESOLUTION APPROVING AND AUTHORIZING CHAIRMAN TO SIGN AGREEMENT BETWEEN THE OMAHA PUBLIC POWER DISTRICT AND SARPY COUNTY FOR CONSTRUCTION OF STREET LIGHT FACILITIES ALONG HARRISON STREET, 147TH STREET TO 157TH STREET

WHEREAS, pursuant to Neb. Rev. Stat. §23-104(6), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. §23-103, the powers of the County as a body are exercised by the County Board; and,

WHEREAS, the County has plans for the reconstruction of Harrison Street from 147th to 157th Street; and,

WHEREAS, the plans for such reconstruction include the construction of a new street light facility; and,

WHEREAS, the parties wish to enter into an agreement outlining their respective responsibilities in regards to said street light facility; and,

WHEREAS, such agreement and construction is in the best interests of the citizens of Sarpy County.

NOW THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that pursuant to the statutory authority set forth above, the Agreement between the Omaha Public Power District and Sarpy County for Construction of Street Light Facilities along Harrison Street, 147th Street to 157th Street, a copy of which is attached hereto, is hereby approved.

BE IT FURTHER RESOLVED that the Chair and the Clerk are hereby authorized to execute said agreement on behalf of Sarpy County, Nebraska.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with the applicable law on the 17th day of April, 2018.

Attest

Sarpy County Board Chairman

County Clerk
MEMORANDUM

To: Sarpy County Board of Commissioners
From: Dennis L. Wilson, P.E., PhD, County Engineer
Subject: OPPD Street Light Construction Agreement
Date: March 22, 2018

RE: C-77(09-1) Harrison Street, from 147th St to 157th St.

I recommend approval of the Agreement with Omaha Public Power District for reimbursement of the Street Light bases and conduit along Harrison Street from 147th St to 157th St as per the construction plans, these items are estimated at $39,830.00.

DLW/bjh
AGREEMENT

BETWEEN

THE OMAHA PUBLIC POWER DISTRICT

AND THE

SARPY COUNTY, NEBRASKA

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CONSTRUCTION OF STREET LIGHT FACILITIES
ALONG HARRISON ST, 147TH TO 157TH
PROJECT NO. C77 (09-01)
AGREEMENT

PROJECT NO. C77(09-1) HARRISON ST, 147TH TO 157TH

OMAHA PUBLIC POWER DISTRICT
SARPY COUNTY, NEBRASKA
STREET LIGHT FACILITY

THIS AGREEMENT is made and entered into by and between the Omaha Public Power District hereinafter referred to as the "Utility" and Sarpy County, Nebraska hereinafter referred to as the "County".

WITNESSETH:

WHEREAS, the County has plans for the reconstruction of Harrison Street from 147th to 157th Street, and

WHEREAS, said construction will be undertaken under the project designation C77(09-1) (the "Project"), and

WHEREAS, the agreement for the Project contemplates construction of the Utility's new street light facility on Harrison Street, from 147th to 157th by the County's contractor, according to the Utility's specifications and as set forth in the Project plans and specifications, and

WHEREAS, the Utility is willing to have the County let the contract and build the street light facility as part of the County's Project, subject to the terms of this Agreement, and

WHEREAS, the County is willing to include the Utility's street light facility in its contract documents for the Project, with the understanding that the Utility will pay the County 100 percent of all street light facility and construction engineering costs incurred in connection with the Project.

NOW THEREFORE, in consideration of the foregoing recitals and the promises and covenants herein, the parties hereto agree as follows:

SECTION 1. The Utility has designed a street lighting facility to be constructed by the County's contractor according to the Utility's specifications and as set forth in the Project plans and specifications at no cost to the County.

SECTION 2. The County pursuant to Neb. Rev. Stat. 39-1407 will award the contract for the Project which contains the aforesaid street light facility. The Utility's
street light facility will be bid as an alternate in the County's construction contract documents for the Project. The Utility will have fourteen (14) days after receipt of the resolution of bid from the County to concur in or reject the bid for the street light facility construction from the apparent low bidder for the entire Project. The County will reject the street light facility bid if it does not receive concurrence from the Utility within the fourteen (14) days.

If the Utility rejects the bid for the street light facility, the parties agree as follows:

A. The Utility will proceed with construction of the street light facility as shown on the Project plans, and the County will coordinate that construction with the remainder of the Project.

B. The County will proceed with the award and/or rejection of the remainder of the project.

SECTION 3. In the event the Utility elects to proceed with the street light work as part of the overall Project, performed by the County's contractor, the Utility shall provide an inspector/engineer for the street light facility construction who shall review and make recommendations to the County's Project manager on all change orders related to the construction of the street light facility. The County's Project manager will have overall control of the work. The Utility's inspector/engineer shall consult with and make recommendations to the County's Project manager concerning the street light work and act as the representative of the Utility during construction. The Utility's inspector/engineer shall inspect the contractor's work and notify the County of any observed non-conformance with the contract documents. Upon successful completion of the street light facility, as determined by the Utility in its reasonable judgment and in conformance with the agreed upon Project plans, the Utility shall give written acceptance of the work to the County. The Utility shall own the street light facilities and be responsible for all maintenance thereof after the date of acceptance. The Utility hereby agrees and covenants that it will hold and save harmless and indemnify the County and any authorized representatives of the County (specifically excluding from such indemnity the contractor or such contractor's agents or representatives) from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever caused by the Utility's negligent act or omission in connection with the design and construction of the street light facility, except due to the sole negligence of the County and/or their authorized representatives. It is the intent of the parties that this Section be construed to be consistent with Neb. Rev. Stat. 25-21, 187, as amended. The County hereby agrees and covenants that it will hold and save harmless and indemnify the Utility and any authorized representatives of the Utility from any and all costs, liabilities, expenses, suits, judgments, damages to persons or property or claims of any nature whatsoever caused by the County's negligent act or omission, or that of its contractor, in connection with the design and construction of the street light facility, except due to the sole negligence of the Utility and/or their authorized representatives. It is the intent of the parties that this Section be construed to be consistent with Neb. Rev. Stat. 25-21, 187, as amended.
SECTION 4. The Utility shall pay the County 100 percent of the actual OPPD and contractor approved cost bid for construction of the street light facility plus any additional required construction engineering, less any boring related costs. Should additional costs above the original bid be required regarding the construction of the street light facility, OPPD shall only be responsible for the additional costs incurred that are reasonably necessary for completion of the street light facility.

SECTION 5. The Utility shall make payment to the County within thirty (30) days after receipt of billing from the County. When the work is completed and all costs accumulated, the County will submit a final statement to the Utility showing the refund due or payment due from the Utility. The parties agree to make final settlement within thirty (30) days after the Utility receives the final statement. The County will furnish the Utility a copy of bid tabulations for the contractor awarded the project and as built drawings for said street light facilities. Ownership in the said street light facility, including responsibility for cost to repair, shall remain in the County until all payments required by this contract are made by the Utility to the County.

SECTION 6. Upon acceptance by the Utility and full payment to the County, said street light facility shall become the property of the Utility, and the County agrees to execute any documents deemed necessary by the Utility to establish or evidence such ownership. The County does not grant the Utility any permanent property rights resulting from the installation of said street light facility on public right-of-way, but acknowledges the right of the Utility to own and maintain the street light facility within the public right-of-way in accordance with Nebraska law...

SECTION 7. The Utility agrees to abide by the provisions of the Nebraska Fair Employment Practices Act as provided by Neb. Rev. Stat. 48-1101 through 48-1126, as amended, and the same are incorporated herein by this reference.

SECTION 8. The parties hereto shall not, in the performance of this Contract discriminate or permit discrimination against any person because of race, sex, age, or political or religious opinions or affiliations or disability in violation of Federal or State Statutes or Local Ordinances.

SECTION 9. The Agreement shall be interpreted, construed and enforced under the laws of the State of Nebraska. It is understood and agreed by the County and the Consultant hereto that if any part, term, condition, or provision of this Agreement is held to be illegal or in conflict with any law of the State of Nebraska or of the United States, the validity of the remaining parts, terms, conditions, or provisions shall not be affected, and the rights and obligations of the County and the Consultant shall be construed and enforced as if the Agreement did not contain the particular part, term, condition, or provisions held to be invalid.
SECTION 10. Pursuant to Neb. Rev. Stat. § 4-114 et seq., each party shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. § 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their proper officials there unto duly authorized as of the dates below indicated.

EXECUTED by the Utility this \underline{14} day of \underline{MARCH}, 2018

ATTEST:
OMAHA PUBLIC POWER DISTRICT

\underline{Robert Atkins} 3-14-18
Lead Utilities Coordinator Date

EXECUTED by Sarpy County on this \underline{17th} day of \underline{April}, 2018

ATTEST:
\underline{Sharon Voight} 4/17/18
Clerk Date

by: County Board Chairman

APPROVED AS TO FORM:
\underline{Denise Gossett-Parker} 3/21/2018
County Attorney Date