

April Special Session II

Time: April 16, 2018 at 5:30

Location: City of Ada Council Chambers

- I. Norman County EDA nomination- Hiliary Chisholm
- II. Approve Northern States Power Contract Extension
- III. First Reading, Ordinance No. 475: An Ordinance Amending City of Ada Intoxicating Liquor Licenses Chapter 6, Sections 51 and 59 and 3.2 Percent Malt Liquor Licenses Chapter 6, Section 91
- IV. Grant licensee a variance on requirements of current ordinances based on changes pending to Ordinance 475 upon receipt of application on May 8th
- V. Set Special Session date for Monday, April 23, 2018 at noon for Second Reading of Ordinance 475
- VI. Approve lease for Dunk
- VII. Set Onsale closure date
 - a. Thursday before Dunk full opening
- VIII. Flooring Cost for bar; ceiling tiles and moving forward
 - a. \$9,900 for labor in meeting room, suspended ceiling in ball room and hallways; \$1,700 for grid; tiles on track to meet cost
 - b. \$6,231 for flooring and ceiling work in bar area
 - c. Lighting for meeting and ballroom, est. \$9,000
- IX. Review RFQs for hiring recruiter and award contract based on proposals
- X. Adjourn

**MARKET BASED RATE
FULL REQUIREMENTS SERVICE AGREEMENT**

DATED AS OF APRIL 19, 2018

BY AND BETWEEN

NORTHERN STATES POWER COMPANY

AND

CITY OF ADA, MINNESOTA

TABLE OF CONTENTS

AGREEMENT & RECITALS	2
ARTICLE 1. DEFINITIONS	2
ARTICLE 2. TERM, SERVICE AND DELIVERY PROVISIONS	5
Section 2.1 Term	5
Section 2.2 Delivery Period.....	5
Section 2.3 No Obligation to Build	6
Section 2.4 Buyer Provided Equipment	6
ARTICLE 3. SALE AND PURCHASE	6
Section 3.1 Market Based Rates	6
Section 3.2 Full Requirements Service	6
Section 3.3 Losses	7
Section 3.4 Market Participant	7
ARTICLE 4. MONTHLY BILLING	7
Section 4.1 Monthly Payment	7
Section 4.2 [Reserved]	7
Section 4.3 [Reserved]	7
Section 4.4 Energy Price	8
Section 4.5 MISO Interface Services Price	8
Section 4.6 Pass Through Charges	8
Section 4.7 Taxes, Fees and Levies.....	8
Section 4.8 Payment	8
Section 4.9 Payment Netting	8
Section 4.10 Billing Disputes.....	9
ARTICLE 5. MISO IMPLEMENTATION AND CONGESTION MANAGEMENT	9
Section 5.1 Implementation.....	9
Section 5.2 Management of Congestion Risks.....	9
ARTICLE 6. CREDITWORTHINESS	9
Section 6.1 Financial Information	9
Section 6.2 Adequate Assurance	10
Section 6.3 Grant of Security Interest/Remedies.....	10
ARTICLE 7. DEFAULT AND REMEDIES	10
Section 7.1 Events of Default.....	10
Section 7.2 Declaration of an Early Termination Date and Calculation of Termination Payment ..	11
Section 7.3 Notice of Payment of Termination Payment.	11
Section 7.4 Disputes With Respect to Termination Payment.....	11

Section 7.5	Suspension of Performance	11
Section 7.6	Obligations Following Expiration or Termination	12
ARTICLE 8.	CURTAILMENT, TEMPORARY INTERRUPTIONS AND FORCE MAJEURE.....	12
Section 8.1	Curtailment	12
Section 8.2	Temporary Interruptions.....	12
Section 8.3	Force Majeure.....	12
Section 8.4	Force Majeure Exceptions.....	12
ARTICLE 9.	NOTICES, REPRESENTATIVES OF THE PARTIES	12
Section 9.1	Notices	12
Section 9.2	Authority of Representative	13
ARTICLE 10.	LIABILITY, INDEMNIFICATION, AND RELATIONSHIP OF PARTIES	13
Section 10.1	Limitation on Consequential, Incidental and Indirect Damages	13
Section 10.2	Indemnification.....	13
Section 10.3	Independent Contractor Status	14
Section 10.4	Title; Risk of Loss	14
ARTICLE 11.	REPRESENTATIONS, WARRANTIES AND COVENANTS.....	14
Section 11.1	Representations and Warranties of Each Party.....	14
Section 11.2	Buyer’s Additional Covenants	14
ARTICLE 12.	ASSIGNMENT.....	15
Section 12.1	General Prohibition Against Assignments	15
Section 12.2	Exceptions to Prohibition Against Assignments	15
ARTICLE 13.	CONFIDENTIALITY	15
ARTICLE 14.	REGULATORY AUTHORITIES.....	15
Section 14.1	Compliance with Laws	15
Section 14.2	Tariffs	15
Section 14.3	FERC Approval	15
ARTICLE 15.	STANDARD OF REVIEW FOR PROPOSED CHANGES, DISPUTE RESOLUTION.....	15
Section 15.1	Standard of Review	15
Section 15.2	Resolution by Officers of the Parties.....	16
ARTICLE 16.	GENERAL PROVISIONS.....	16
Section 16.1	Third Party Beneficiaries.....	16
Section 16.2	Waivers.....	16

Section 16.3	Interpretation	16
Section 16.4	Modification	16
Section 16.5	Counterparts	16
Section 16.6	Headings	16
Section 16.7	Audit	16
Section 16.8	Records	16
Section 16.9	Survival	16
ARTICLE 17. RULES OF CONSTRUCTION		17
APPENDIX A. MISO INTERFACE SERVICES.....		19
APPENDIX B. LETTER OF AGENCY.....		21
APPENDIX C. FORM OF LETTER OF CREDIT		22

MARKET BASED RATE
FULL REQUIREMENTS SERVICE AGREEMENT

This AGREEMENT is dated as of April 11, 2018 (“Effective Date”) and is by and between Northern States Power Company, a Minnesota corporation (“Seller”) and the City of Ada, Minnesota (“Buyer”) (each individually a “Party,” or collectively, the “Parties”).

RECITALS

WHEREAS, Seller is Northern States Power Company; and

WHEREAS, Buyer is the City of Ada, Minnesota; and

WHEREAS, Buyer requires Full Requirements Service to serve Buyer’s Retail Load, as defined herein;
and

WHEREAS, Buyer has retained Seller to act as Buyer’s agent in scheduling Buyer’s Retail Load in MISO and providing other services necessary to provide firm electric service to Buyer’s Retail Load in accordance with this Agreement; and

WHEREAS, Seller is engaged in the business of wholesale marketing of electric energy pursuant to Market-Based Rate authority granted from FERC, and has proposed to supply, subject to the terms and conditions set forth herein, Full Requirements Service to Buyer and to act as Buyer’s agent;

NOW THEREFORE, in consideration of the mutual covenants and agreements herein contained, the Parties hereby agree that this Agreement, together with the Appendices attached hereto, sets forth the terms under which Seller will supply Full Requirements Service to Buyer during the Delivery Period and provide related services; and constitutes the entire agreement among the Parties relating to the subject matter hereof, superseding any other agreements, written or oral (including without limitation any preliminary term sheet) between the Parties concerning this Agreement.

ARTICLE 1 - DEFINITIONS

The following words and terms shall be understood to have the following meanings when used in this Agreement or in any associated documents entered into in conjunction with this Agreement. This Agreement includes certain capitalized terms that are not explicitly defined herein. Such capitalized terms shall have the meanings specified in the “Related Documents,” as the same are in effect from time to time, which meanings are incorporated herein by reference and made a part hereof. In the event of any inconsistency between a definition contained herein and a definition contained in “Related Documents,” the definition in this Agreement shall control for purposes of this Agreement. Certain other definitions as required appear in subsequent parts of this Agreement.

- 1.1 **Affiliate** means, with respect to any person, any other person (other than an individual) that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with, such person. For this purpose, “control” means the direct or indirect ownership of fifty percent (50%) or more of the outstanding capital stock or other equity interests having ordinary voting power.
- 1.2 **Agency Agreement** means the agreement between the Parties designated on Appendix B.
- 1.3 **Agreement** means this Full Requirements Service Agreement, including the Appendices, as amended, modified or supplemented from time to time.
- 1.4 **Ancillary Services** is defined in Section 3.2.3.

- 1.5 **Billing Period** means the calendar month, which shall be the standard period for all payments and metering measurements under this Agreement, unless otherwise specifically required by MISO or the entity providing meter reading services.
- 1.6 **Business Day** means a day ending at 5:00 p.m. Central Prevailing Time, other than Saturday, Sunday and any day which is a legal holiday or a day designated as a holiday by the North American Electric Reliability Council; provided, that, with respect to any payment due hereunder, a “Business Day” means a day ending at 5:00 p.m. Central Prevailing Time, other than Saturday, Sunday and any day which is a legal holiday or a day on which banking institutions are authorized by Law to close; and, provided, further, that with respect to any notices for scheduling to be delivered pursuant to any Section hereof, a “Business Day” shall be a day other than Saturday, Sunday and any day which is a legal holiday or a day designated as a holiday by MISO.
- 1.7 **Capacity** is defined in Section 3.2.2
- 1.8 **Central Prevailing Time (CPT)** means the prevailing time in Minneapolis, Minnesota.
- 1.9 **Claims** means all third party claims or actions, threatened or filed and, whether groundless, false, fraudulent or otherwise, that directly or indirectly relate to the subject matter of this Agreement, and the resulting losses, damages, expenses, attorneys’ fees and court costs, whether incurred by settlement or otherwise, and whether such claims or actions are threatened or filed prior to or after the termination of this Agreement.
- 1.10 **[Reserved]**
- 1.11 **Congestion Costs** means the effect on transmission line loadings as reflected in the cost of transmission (whether positive or negative) associated with either increasing the output of a generating resource or serving an increment of load at a delivery point when the transmission system serving that delivery point is operating under constrained conditions.
- 1.12 **Congestion Rights** means the mechanism employed by MISO to allocate, using financial rights, hedges for Congestion Costs between a generating resource and a load (whether set forth in the MISO OATT or elsewhere).
- 1.13 **Credit Rating** means the respective rating then assigned to a Qualified Institution’s senior unsecured bond rating (unenhanced by third party support) by S&P or its successor, or by Moody’s or its successor.
- 1.14 **Defaulting Party** means the Party who has caused an Event of Default.
- 1.15 **Delivery Period** means the period as defined in Section 2.2.
- 1.16 **Delivery Point** means node OTP.NSPX.ADA, or as designated by MISO.
- 1.17 **Designated Agent** means the actions or functions performed by the Seller on behalf of Buyer as a Market Participant under the MISO OATT.
- 1.18 **Early Termination Date** is the date selected by the Non-Defaulting Party to terminate this Agreement.
- 1.19 **Effective Date** has the meaning stated in the first sentence of this Agreement.
- 1.20 **Energy** means three phase, 60-cycle alternating current electric energy, expressed in megawatt hours.
- 1.21 **Event of Default** means those events by the Defaulting Party set forth in this Agreement which give the Non-Defaulting Party the right to terminate this Agreement or exercise other remedies available under this Agreement.

- 1.22 **FERC** means the Federal Energy Regulatory Commission.
- 1.23 **Firm Energy** is defined in Section 3.2.1.
- 1.24 **Force Majeure** means an event or circumstance which prevents one Party from performing its obligations under this Agreement, which event or circumstance was not reasonably anticipated as of the date the Agreement was agreed to, which is not within the reasonable control of, or the result of the negligence of, the Claiming Party, and which, by the exercise of due diligence, the Claiming Party is unable to overcome or avoid or cause to be avoided.
- 1.25 **Full Requirements Service** is defined in Section 3.2.
- 1.26 **HE** means the hour ending at the time specified.
- 1.27 **Letter(s) of Credit** means an irrevocable standby letter of credit issued by a Qualified Institution utilizing the form set forth in Appendix C attached hereto, and as may be reasonably acceptable to the Party in whose favor the letter of credit is issued.
- 1.28 **Liquidated Gains** means, with respect to any Party, an amount equal to the present value of the economic benefit to it, if any (exclusive of Termination Costs), resulting from the termination of this Agreement, determined in a commercially reasonable manner.
- 1.29 **Liquidated Losses** means, with respect to any Party, an amount equal to the present value of the economic loss to it, if any (exclusive of Termination Costs), resulting from termination of this Agreement, determined in a commercially reasonable manner.
- 1.30 **Load Serving Entity or LSE** means any entity (or the duly designated agent of such an entity), including any transmission owner, taking transmission service on behalf of wholesale or retail power Buyers, which has undertaken an obligation to provide or obtain electric energy for end-use Buyers by statute, franchise, regulatory requirement or contract for load located within or attached to the transmission system, and has been authorized by MISO to participate in the energy markets operated by MISO serving end-users within MISO.
- 1.31 **Losses** mean any transmission loss, transformation loss, sub-transmission and/or distribution losses incurred in providing Full Requirements Service hereunder.
- 1.32 **Market Participant or MP** means any entity (or the duly designated agent of such an entity), that is qualified, pursuant to the procedures established by MISO, to do the following (with all capitalized terms used herein having the meaning set forth in the MISO OATT): (i) submit Bilateral Transactions Schedules to the MISO; (ii) submit Bids to purchase, and/or Offers to supply electricity in the Day-Ahead and/or Real-Time Energy Markets; (iii) hold Financial Transmission Rights and submit bids to purchase, and/or offers to sell such rights; and (iv) settle all payments and charges with MISO.
- 1.33 **Meter Data Management Agent or MDMA** has the meaning ascribed thereto by MISO.
- 1.34 **Metered Energy** means the Energy delivered by MISO to the Delivery Point as measured by meters at the Delivery Point. If the meter is not at the Delivery Point, the Energy will be measured at the meter point, and adjusted to compensate for any applicable distribution and transformation losses between the metering point and the Delivery Point.
- 1.35 **MISO** means Midcontinent Independent System Operator, Inc. or any successor thereto.
- 1.36 **MISO OATT** means MISO's Open Access Transmission and Energy Markets Tariff, as amended from time to time, or any successor thereto.

- 1.37 **Monthly Payment** means the monthly charges set out in Article 4 of this Agreement.
- 1.38 **Moody's** means Moody's Investors Service, Inc. and its successors.
- 1.39 **MW** means Megawatt.
- 1.40 **MWh** means Megawatt-hour.
- 1.41 **NERC** means the North American Electric Reliability Corporation.
- 1.42 **Network Integration Transmission Service or NITS** means firm transmission service as set forth in the MISO OATT that provides for open access to the transmission systems within MISO and for the delivery of Firm Energy to the Delivery Point.
- 1.43 **Non-Defaulting Party** means the Party that has not caused an Event of Default.
- 1.44 **Party(ies)** means Buyer or Seller or either or both of them, as the context requires.
- 1.45 **Performance Assurance** means collateral in the form of cash, Letter(s) of Credit, or other security acceptable to the requesting Party.
- 1.46 **Prime Rate** means the lesser of (i) the rate published from time to time in The Wall Street Journal, as the prime lending rate, and (ii) the maximum rate permitted by applicable law.
- 1.47 **Qualified Institution** means a major U.S. commercial bank or foreign bank with a U.S. branch office with such bank having a Credit Rating of at least "A-" by S&P or "A3" by Moody's and net capital in excess of one billion dollars (\$1,000,000,000), provided that if the senior unsecured bond rating (unenhanced by third party support) is exactly equivalent to "A-" by S&P or "A3" by Moody's, such bank shall not be on credit watch or negative outlook by such rating agency.
- 1.48 **Related Documents** means for MISO, either collectively or individually, the MISO OATT, the MISO Network Operating Agreement, Market Participant Agreement, MISO Market Participant Application, Network Integration Transmission Service Agreement, Designated Agent Agreement, Transaction Specification Sheet, Local Security Administrator, and other applicable MISO market rules and procedures.
- 1.49 **Renewable Energy Credits (REC or RECs)**. Is defined in Section 3.2.6.
- 1.51 **Retail Load** means the full electricity consumption requirements of Buyer's retail customers, subject to Section 3.1, expressed in MWh and measured by hourly meter readings at the Delivery Point.
- 1.52 **S&P** means Standard & Poor's Rating Group (a division of McGraw-Hill, Inc), and its successors.
- 1.53 **Term** is defined in Section 2.1.
- 1.54 **Termination Costs** means, with respect to the Non-Defaulting Party, brokerage fees, commissions and other similar third party transaction costs and expenses reasonably incurred by such Party either in terminating this Agreement or any arrangement pursuant to which it has hedged its obligations or entered into new arrangements which replace this Agreement; and all reasonable attorneys' fees and expenses incurred by the Non-Defaulting Party in connection with the early termination of this Agreement.
- 1.55 **Termination Payment** means, with respect to this Agreement and the Non-Defaulting Party, the Liquidated Losses or Liquidated Gains, and Termination Costs, expressed in U.S. dollars, which such Party incurs as a result of the early termination of this Agreement.

1.56 **Transmission Service** is defined in Section 3.2.4.

ARTICLE 2 - TERM, SERVICE AND DELIVERY PROVISIONS, TERMINATION OF EXISTING AGREEMENT

2.1 **Term.** The Term of this Agreement shall begin as of the Effective Date and extend through and include the end of the Delivery Period, unless either Party declares an Early Termination Date in accordance with the provisions hereof. The applicable provisions of this Agreement shall continue in effect in accordance with Article 16.9, Survival, and to the extent necessary to provide for final accounting, billing, billing adjustments, resolution of any billing disputes, realization of any collateral or other security, set-off, final payments, payments pertaining to liability and indemnification obligations arising from acts or events that occurred during the Delivery Period, or other such provisions that, by their terms or operation, survive the termination of this Agreement. Unless the Parties negotiate and enter into a new agreement for a Delivery Period beyond that provided herein, the Seller's obligations and the Buyer's obligations under this Agreement shall terminate at the end of the Delivery Period.

2.2 **Delivery Period.** The Delivery Period for Firm Energy and MISO Interface Services shall commence on January 1, 2022 and end on December 31, 2027.

2.3 **No Obligation to Build.** Buyer represents that it has no plan or intention to build generating facilities to reduce Retail Load during the Term of this Agreement.

2.4 **Buyer Provided Equipment.** Buyer will provide or cause to be provided any and all substation and transformation equipment and any and all other facilities required to take delivery of the Full Requirements Service to be sold and purchased hereunder at the nominal voltage at the Delivery Point. As between Seller and Buyer, Buyer shall be responsible for all costs to install and maintain the metering and the communication facilities sufficient to communicate Buyer's real-time demand as required for the implementation of this Agreement.

ARTICLE 3 - SALE AND PURCHASE

3.1 **Market Based Rates.** This Agreement is entered into pursuant to Seller's Market Based Tariff ("MBT"). The terms of the MBT, as it may be amended, shall apply to this Agreement as though set forth herein.

3.2 **Full Requirements Service.** Subject to Section 2.2 herein, during the Delivery Period, Seller shall provide Full Requirements Service to serve Buyer's Retail Load. Full Requirements Service shall include Firm Energy, Ancillary Services, Transmission Service and MISO Interface Services in excess of that provided for by the Buyer's purchased power agreement with the Western Area Power Administration ("WAPA Contract"). For the sake of clarity, Full Requirements Services under this Agreement does not include or govern Capacity; such Capacity being provided and governed by a separate Capacity Confirmation Agreement dated as of February 8, 2018. Subject to the limitations set forth in this Section 3.2, Seller shall provide Full Requirements Service regardless of changes in Buyer's Retail Load arising from daily demand fluctuations, increased or decreased usage, extreme weather and similar events; *provided, however*, that at no time during the Delivery Period shall Buyer use or allow the use of either (a) newly constructed or purchased generation resources or (b) new or amended power purchase agreements to reduce Buyer's Retail Load other than the aforementioned WAPA Contract.

Notwithstanding any other provision to the contrary in this Agreement, Buyer's Retail Load shall *not* include: (a) any increases in the peak load consumption of Buyer's customers as a result of annexation, merger, or acquisition; or (b) the addition of any new load in Buyer's service territory, whether composed of a single or multiple meter points, of 2,000 kW or more in any hour. To the extent that Buyer incurs an additional load obligation because of the occurrence of one or more of the events described in (a) or (b) above, Seller and Buyer agree to meet to discuss whether changes may be made to this Agreement to address how Buyer's additional load obligation can be met under this Agreement; *provided however*, neither Party shall be required to accept a change with which it, in its sole judgment, disagrees. If the Parties do not agree how Buyer's additional load obligation can be met under this Agreement, then Seller shall, until such time that Buyer finds an alternate supplier to serve such additional load obligation, pass through to Buyer the market clearing price, along with any other costs incurred by Seller, to serve such additional load obligation. Buyer shall not be relieved of or excused from its obligation to purchase Full

Requirements Service due to any reduction in Retail Load peak consumption arising from merger or divestiture without first obtaining the prior written consent of Seller, which Seller may grant or withhold in Seller's commercial judgment/discretion.

3.2.1 **Firm Energy.** Firm Energy shall mean Energy that Seller is required to sell and deliver and Buyer is required to purchase and receive unless relieved of their respective obligations without liability by Force Majeure, MISO system emergency, or local transmission conditions making delivery or receipt impossible, but only to the extent that, and for the period during which, the Party's performance is prevented thereby. Firm Energy shall be provided by Seller from any and all resources at Sellers' choosing including, but not limited to, energy from the MISO day ahead and/or real time energy markets.

3.2.2 **Capacity.** Capacity shall mean Zonal Resource Credits (ZRCs) applicable to the Buyer's Local Resource Zone as such terms are defined in the MISO OATT and the MISO Resource Adequacy Business Practices Manual as may be amended from time to time (together referred to as the "MISO Rules"), in an amount sufficient to satisfy Buyer's resource adequacy requirements as established by MISO. One ZRC represents one megawatt of Unforced Capacity, as such term is defined in the MISO Rules, that qualifies to satisfy the resource adequacy requirements of Module E for MISO and that is deliverable pursuant to Module E of the MISO OATT to Buyer's Retail Load.

3.2.3 **Ancillary Services.** Ancillary Services shall mean the following services, as required to serve Buyer's Retail Load under the terms of this Agreement at the Delivery Point: those services set forth in the applicable MISO OATT schedules and any supplemental or revised tariffs or schedules adopted by the Transmission Provider, including without limitation: Scheduling, System Control and Dispatch Service, Transmission Owners Scheduling, Reactive Supply and Voltage Control from Generation or Other Sources Service, Regulation and Frequency Response Service, Energy Imbalance Service, Operating Reserve-Spinning Reserve Service, Operating Reserve-Supplemental Reserve Service, and Black Start Service (as each of those services is defined in the applicable MISO OATT schedules).

3.2.4 **Transmission Service.** Transmission Service shall mean NITS as defined in the MISO OATT, as required to serve the Buyer's Retail Load under the terms of this Agreement at the Delivery Point. Buyer shall be responsible for all NITS and related MISO charges.

3.2.5 **MISO Interface Services.** MISO Interface Services shall mean the services prescribed in Appendix A attached.

3.2.6 **Renewable Energy Credits (RECs).** RECs shall have the meaning set forth in Minnesota Statute 216B.1691. This Agreement does not include the sale of RECs to Buyer. .

3.3 **Losses.** Buyer shall be responsible for and shall pay all Losses incurred from the Delivery Point to Buyer's Retail Load. Seller agrees to pay for all Losses associated with this Full Requirements Service to the Delivery Point, and shall receive any refunds from MISO that are derived from any over collection by MISO of Losses to the Delivery Point.

3.4 **Market Participant.**

Seller (or Seller's agent) will continue to be the Market Participant for Buyer's Retail Load. Seller (or Seller's agent) shall bid Retail Load into the MISO market in accordance with applicable market rules.

Seller (or Seller's agent) shall make timely payment to MISO for all settlement statements and invoices it receives relating to the Full Requirements Service provided hereunder; to the extent that Buyer bears responsibility for such charges, Seller will include in its invoices to Buyer a pass-through of such charges that Seller (or Seller's agent) has paid on Buyer's behalf, and Buyer shall reimburse Seller for such charges. Seller will provide reasonable assistance to Buyer in disputing MISO or local distribution utility charges in accordance with the billing dispute protocol of MISO or such local distribution utility, as applicable. If Buyer elects to directly challenge such MISO or local distribution utility charges, it shall so notify Seller.

If charges, schedules or services are added, deleted or changed in the agreements and tariffs of MISO or the local distribution utility, or in other documents governing the provision of and charges for services required in connection with Full Requirements Service, Buyer will be responsible for any new services and for any additional charges imposed on LSEs by MISO or such local distribution utility (with respect to the Retail Load).

ARTICLE 4 - MONTHLY BILLING

4.1 **Monthly Payment.** In each month during the Delivery Period, Seller shall calculate the Monthly Payment consisting of the Energy Price, the MISO Interface Services price, the Pass Through Charges (as described in Sec. 4.6), and any taxes, fees and levies (as described in Sec. 4.7) associated with this Agreement. Because quantities determined under Article 4 may be estimated, and subject to a reconciliation process, quantities used in calculations shall be subject to adjustment, whether positive or negative, in subsequent months' calculations.

4.2 **[Reserved].**

4.3 **[Reserved].**

4.4 **Energy Price.** Buyer shall pay Seller an Energy Price equal to \$43.50 per MWh multiplied by the Metered Energy minus the energy provided to Buyer by the WAPA Contract for the Billing Period.

4.5 **MISO Interface Services Price.** Buyer shall pay Seller a services fee of \$1.00 per MWh multiplied by the total Metered Energy serving the Buyer's Retail Load including WAPA Contract energy for the Billing Period.

4.6 **Pass Through Charges.** Seller shall pass through to Buyer all charges for Ancillary Services, as well as all costs incurred by Seller related to Transmission Service. Seller shall pass through to Buyer all charges associated with Buyer's compliance with the Minnesota RPS. To the extent that either Party pays or is required to pay any charge that is the responsibility of the other Party, the paying Party shall be reimbursed for such costs by the responsible Party either through cash payment or by credit against other amounts owed to the responsible Party by the paying Party in accordance with this Section.

4.7 **Taxes, Fees and Levies.**

- (a) Buyer shall be obligated to pay all present and future taxes, fees and levies imposed on or associated with Full Requirements Service. All Full Requirements Service delivered by Seller to Buyer hereunder shall be for use or resale by Buyer, including resale to governmental agencies. Buyer shall provide Seller with any certificate reasonably required by Seller to evidence such sales for resale. Buyer shall have the right to all credits, deductions and other benefits associated with taxes paid by Buyer or reimbursed to Seller by Buyer as described herein.
- (b) The Parties understand and agree that laws, regulations, treaties or other rules binding upon the Parties could be enacted, approved, issued, promulgated, interpreted or enforced by Governmental Authorities with effect during the Term that restrict, cap or place a cost, charge or other financial burden on emissions of carbon dioxide (CO₂) and other greenhouse gases, or on the consumption, transportation or use of energy from such sources ("**GHG Laws**"). The Parties agree that restrictions, costs, charges, taxes and other financial impacts associated with present and future GHG Laws that arise prior to the Delivery Point from the production of Energy from fossil-fuel power plants and the transmission of such Energy up to the Delivery Point shall be the responsibility of Seller. The Parties agree that restrictions, costs charges, taxes and other financial impacts associated with present and future GHG Laws that arise from the sale to, or the purchase, consumption or use of, Energy by Buyer or its retail customers, or from the receipt, possession or transportation of Energy at and after the Delivery Point, shall be the responsibility of Buyer. As used in this paragraph, "**Governmental Authority**" means any federal, state, local or municipal governmental body; any governmental, quasi-governmental, regulatory or administrative agency, commission, body or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power; or any court or governmental tribunal.

4.8 **Payment.**

- (a) **Invoice and Payment Date.** Buyer shall pay Seller any amounts due and payable hereunder on or before the later of the eighteenth (18th) day of each month, or the tenth (10th) day after receipt of invoice, or if such day is not a Business Day, then on the next Business Day.
- (b) **Payment Method and Interest.** Payment to be made through a wire transfer in accordance with instructions that Seller will separately provide to Buyer, or by other mutually agreeable method(s), to the account designated. If all or any part of any amount due and payable pursuant to this Agreement shall remain unpaid after the date due, interest shall thereafter accrue and be payable to Seller on such unpaid amount at a rate per annum equal to the Prime Rate plus 2% per annum; provided, however, that no interest shall accrue in respect of adjustment amounts calculated in accordance with Section 4.1.

4.9 **Payment Netting.** The Parties hereby agree that they shall discharge mutual debts and payment obligations due and owing to each other on the same date pursuant to this Agreement through netting, in which case all amounts owed by each Party to the other Party under this Agreement, interest, and payments or credits, shall be netted so that only the excess amount remaining due shall be paid by the Party who owes it. All amounts netted pursuant to Article 4 shall not take into account or include any Performance Assurance, which may be in effect to secure a Party's performance under this Agreement. If no mutual debts or payment obligations exist and only one Party owes a debt or obligation to the other during the monthly Billing Period, that Party shall pay such sum in full when due.

4.10 **Billing Disputes.** If a Party, in good faith, disputes an invoice, the disputing Party shall, as soon as practicable, notify the other Party of the basis for the dispute and, if the invoice has not yet been paid, pay at least the undisputed portion of such invoice no later than the due date. Upon resolution of the dispute, any required payment or refund shall be made within two (2) Business Days of such resolution along with any accrued interest from and including the due date to but excluding the date paid (or, in the case of refunds, accrued interest from and including the date the payment was made to but excluding the date the refund is paid). Inadvertent overpayments shall be returned or deducted from subsequent payments at the option of the overpaying Party with interest accrued at the Prime Rate from and including the date of such overpayment to but excluding the date repaid or deducted by the Party receiving such overpayment.

ARTICLE 5 - MISO IMPLEMENTATION AND CONGESTION MANAGEMENT

5.1 **Implementation.**

- (a) **MISO Documents.** Seller and Buyer shall each enter into, and submit to MISO and other applicable entities, all necessary documents with respect to fulfilling their respective requirements for providing and receiving the Full Requirements Service.
- (b) **Market Participant (MP).** Seller shall act as an MP under this Agreement and represents and warrants that it is a MP and agrees to remain a MP throughout the Term.
- (c) **Designated Agent.** If required, Seller shall act as Buyer's designated agent as provided in Appendix B hereto. If required, Buyer agrees to execute and maintain in effect Sections IX and XIV of the Market Participant Application delegating to Seller the authority to act as Buyer's agent to fulfill Seller's requirements for providing the Full Requirements Service to the extent set forth in such Sections.
- (d) **Load Serving Entity.** The Parties recognize that Buyer is the LSE for Buyer's Retail Load and Seller's obligations in this Agreement shall not make Seller the LSE. Buyer will be responsible for compliance with NERC and regional reliability organization requirements throughout the Term. Seller will provide Buyer with such information and technical assistance as Buyer may reasonably request in order to document the manner in which Buyer provides for compliance with NERC and regional reliability organization requirements. Buyer will reimburse Seller for any costs or charges incurred by Seller in connection with Buyer's NERC and regional reliability organization requirements.

- (e) **Information Access.** Buyer further gives permission to Seller to access information at MISO that Seller reasonably requests to facilitate the administration of this Agreement.

5.2 **Management of Congestion Risks.**

- (a) **Congestion Costs.** Any Congestion Costs in MISO associated with this Agreement up to the Delivery Point for Full Requirements Service will be borne by the Seller, and the Buyer shall have no responsibility for any Congestion Costs under this Agreement associated with the Full Requirements Service.
- (b) **Congestion Rights.** During the Delivery Period of this Agreement Seller shall retain any Auction Revenue Rights (“ARRs”), payments or rights due to its use of the ARR to obtain Financial Transmission Rights (“FTRs”). Any MISO credits or debits associated with the FTRs shall be retained by the Seller.
- (c) **Congestion Hedges.** It is the intent of the Parties that the Seller will assume all risks associated with any and all congestion hedges and nomination rights associated with any and all congestion hedges. Seller shall manage any Congestion Rights in MISO that Buyer holds or receives at any time during the Delivery Period associated with Buyer’s Full Requirements Service hereunder. All credits or charges associated with such management of Congestion Rights shall be retained by the Seller.

ARTICLE 6 – CREDITWORTHINESS

6.1 **Financial Information.** If requested by either Party, the other Party shall deliver within 150 days following the end of each fiscal year, a copy of the annual report containing its audited consolidated financial statements for such fiscal year. In all cases the statements shall be for the most recent accounting period and shall be prepared in accordance with generally accepted accounting principles; provided, however, that should any such statements not be available on a timely basis due to a delay in preparation or certification, such delay shall not be an Event of Default so long as the relevant entity diligently pursues the preparation, certification and delivery of the statements.

6.2 **Adequate Assurance.** If either Party ("Party X") has commercially reasonable grounds to believe that the other Party's ("Party Y") creditworthiness or performance under this Agreement has become unsatisfactory, Party X will provide Party Y with written notice requesting Performance Assurance (in a form and from a Qualified Institution acceptable to Party X in its reasonably exercised discretion), in an amount determined by Party X in a commercially reasonable manner. Upon receipt of such notice, Party Y shall have ten (10) business days to provide such Performance Assurance to Party X. Failure by Party Y to provide such Performance Assurance within the time specified above shall be deemed an Event of Default hereunder. Party X may retain such Performance Assurance for so long as the relevant commercially reasonable grounds for insecurity are continuing. Once such commercially reasonable grounds for insecurity no longer exist, Party X shall return to Party Y the entire amount of such Performance Assurance within ten (10) business days of written request by Party Y.

6.3 **Grant of Security Interest/Remedies.** To secure Buyer’s obligations under this Agreement, Buyer shall provide Seller within five (5) days of the execution of this Agreement, with the following Performance Assurance: N/A. To the extent either or both Parties deliver any Performance Assurance hereunder, each Party (a “Pledgor”) hereby grants to the other Party (the “Secured Party”) a present and continuing security interest in, and lien on (and right of setoff against), and assignment of, all collateral, whether now or hereafter held by, on behalf of, or for the benefit of, such Secured Party, and each Party agrees to take such action as the other Party reasonably requires in order to perfect the Secured Party’s first-priority security interest in, and lien on (and right of setoff against), such collateral.

Upon or any time after the occurrence and during the continuation of an Event of Default or an Early Termination Date, the Non-Defaulting Party may do any one or more of the following:

- (a) exercise any of the rights and remedies of a Secured Party with respect to all Performance Assurance, including any such rights and remedies under law then in effect;

- (b) exercise its rights of setoff against any and all property of the Defaulting Party in the possession of the Non-Defaulting Party or its agent;
- (c) draw on any outstanding Letter of Credit issued for its benefit; and
- (d) liquidate all Performance Assurance then held by or for the benefit of the Secured Party free from any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption by the Defaulting Party.

The Secured Party shall apply the proceeds of the collateral realized upon the exercise of any such rights or remedies to reduce the Pledgor's obligations under the Agreement (the Pledgor remaining liable for any amounts owing to the Secured Party after such application), subject to the Secured Party's obligation to return any surplus proceeds remaining after such obligations are satisfied in full.

ARTICLE 7 - DEFAULT AND REMEDIES

7.1 **Events of Default.** Any one or more of the following shall constitute an "Event of Default" hereunder with respect to either Party (the "Defaulting Party"):

- (a) The failure to make, when due, any payment required pursuant to this Agreement (other than payments disputed under Section 4.10) if such failure is not remedied within three (3) Business Days after written notice;
- (b) Any representation or warranty made by a Party herein is false or misleading in any material respect when made or when deemed made or repeated;
- (c) The failure by either Party to provide Performance Assurance as set forth in Article 6;
- (d) The failure to perform any material covenant or obligation set forth in this Agreement (except to the extent constituting a separate Event of Default as specified above, if such failure is not remedied within three (3) Business Days after written notice;
- (e) Such Party: (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due; or
- (f) Such Party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and, at the time of such consolidation, amalgamation, merger or transfer, the resulting, surviving or transferee entity fails to assume all the obligations of such Party under this Agreement by operation of law or pursuant to an agreement reasonably satisfactory to the other Party.
- (g) Such Party experiences the occurrence and continuation of a default, event of default or other similar condition or event in respect of such Party under one or more agreements or instruments, individually or collectively, relating to indebtedness for borrowed money in an aggregate amount of not less than U.S. Dollars \$100,000,000 for Seller and U.S. Dollars \$250,000 for Buyer, which results in such indebtedness becoming immediately due and payable.

7.2 **Declaration of an Early Termination Date and Calculation of Termination Payment.** If an Event of Default with respect to a Defaulting Party shall have occurred and be continuing, the other Party (the “Non-Defaulting Party”) shall have the right (i) to designate a day, no earlier than the day such notice is effective and no later than 20 days after such notice is effective, as an early termination date (“Early Termination Date”) to accelerate all amounts owing between the Parties and to liquidate and terminate the Agreement between the Parties, (ii) withhold any payments due to the Defaulting Party under this Agreement, (iii) liquidate all Performance Assurance then held by or for the benefit of the secured Party free of any claim or right of any nature whatsoever of the Defaulting Party, including any equity or right of purchase or redemption of the Defaulting Party, and (iv) suspend performance.

The Non-Defaulting Party shall calculate, in a commercially reasonable manner, a Termination Payment for this Agreement as of the Early Termination Date. The Termination Payment will be determined by the Non-Defaulting Party using the Forecasted Remaining Quantities. As used in this paragraph, “Forecasted Remaining Quantities” means the Non-Defaulting Party’s commercially reasonable forecast of the quantities of Energy required to provide Full Requirements Service for the remainder of the Delivery Period, which shall be calculated as the amount of Buyer’s Retail Load during each hour of the twelve (12) months preceding the Early Termination Date escalated annually for the remainder of the Delivery Period at the average annual rate of growth of Buyer’s Retail Load over the three (3) full calendar years preceding the Early Termination Date. After calculation of a Termination Payment in accordance with this Section, if the Defaulting Party would be owed the Termination Payment, the Non-Defaulting Party shall be entitled, at its option and in its discretion, to setoff against such Termination Payment any amounts due and owing by the Defaulting Party to the Non-Defaulting Party under any other agreements, instruments, or arrangements between the Defaulting Party and the Non-Defaulting Party.

7.3 **Notice of Payment of Termination Payment.** As soon as practicable after a termination, notice shall be given by the Non-Defaulting Party to the Defaulting Party of the amount of the Termination Payment, after any setoff exercised by the Non-Defaulting Party in accordance with Section 7.2. The notice shall include a written statement explaining in reasonable detail the calculation of such amount. The Termination Payment shall be made by the Party that owes it within ten days after such notice is effective. Notwithstanding any provision to the contrary in this Agreement, the Non-Defaulting Party shall not be required to pay the Defaulting Party any amount under Article 7 until the Non-Defaulting Party receives confirmation satisfactory to it in its reasonable discretion that any other obligations of any kind whatsoever of the Defaulting Party to make payments to the Non-Defaulting Party under this Agreement or otherwise have been fully performed.

7.4 **Disputes With Respect to Termination Payment.** If the Defaulting Party disputes the Non-Defaulting Party’s calculation of the Termination Payment, in whole or in part, the Defaulting Party shall, within five (5) Business Days of receipt of the Non-Defaulting Party’s calculation of the Termination Payment, provide to the Non-Defaulting Party a detailed written explanation of the basis for such dispute; *provided, however*, that where the Termination Payment is due from the Defaulting Party, the Defaulting Party shall first transfer Performance Assurance to the Non-Defaulting Party in an amount equal to the Non-Defaulting Party’s calculation of the Termination Payment. The Non-Defaulting Party shall hold such Performance Assurance in a separate account (and shall not use, expend or distribute any such disputed amounts) until the Parties’ dispute has been resolved.

7.5 **Suspension of Performance.** Notwithstanding any other provision of this Agreement, if an Event of Default shall have occurred and be continuing, the Non-Defaulting Party, upon written notice to the Defaulting Party, shall have the right to suspend performance under this Agreement; provided, however, in no event shall any such suspension continue for longer than ten (10) Business Days unless an Early Termination Date shall have been declared and notice thereof pursuant to Article 9 given and to the extent an Event of Default shall have occurred and be continuing, the Non-Defaulting Party may exercise any remedies available under this Agreement.

7.6 **Obligations Following Expiration or Termination.** Upon the termination or expiration of this Agreement, in addition to such rights and obligations enumerated elsewhere in this Agreement, the grant of any and all right and interest to Seller to supply the Full Requirements Service shall cease, and Buyer and Seller shall immediately make all necessary filings with MISO and perform all other acts necessary to transfer all such rights and interests back to Buyer.

ARTICLE 8 – CURTAILMENT, TEMPORARY INTERRUPTIONS AND FORCE MAJEURE

8.1 **Curtailment.** Upon being notified by MISO of a requirement to curtail, regardless of whether such notice is provided by MISO directly or indirectly through Seller, Buyer will institute procedures which will cause a corresponding curtailment of the use of Energy by its Retail Load. If upon notification of a requirement to curtail Energy deliveries to its Retail Load, Buyer fails to institute such procedures, Seller shall be entitled to limit deliveries of Firm Energy to Buyer in order to effectuate reductions in Energy deliveries equivalent to the reduction which would have been effected had Buyer fulfilled its curtailment obligation hereunder during the period any shortage exists, and, in such event, Seller shall not incur any liability to Buyer in connection with any such action so taken by Seller.

8.2 **Temporary Interruptions.** Seller will use reasonable diligence in undertaking its obligations under this Agreement to furnish Firm Energy to Buyer, but Seller does not guarantee that the supply of Firm Energy furnished to Buyer will be uninterrupted, or that voltage and frequency will be at all times constant. Notwithstanding any other provision herein, temporary interruption of Firm Energy deliveries hereunder shall not constitute a breach of the obligations of Seller under this Agreement.

8.3 **Force Majeure.** To the extent either Party is prevented by Force Majeure from carrying out, in whole or part, its obligations under the Agreement and such Party (the "Claiming Party") gives notice and details of the Force Majeure, including its probable duration, to the other Party as soon as practicable, then the Claiming Party shall be excused from the performance of its obligations with respect to this Agreement (other than the obligation to make payments then due or becoming due with respect to performance prior to the Force Majeure). The Claiming Party shall remedy the Force Majeure with all reasonable dispatch. The non-Claiming Party shall not be required to perform or resume performance of its obligations to the Claiming Party corresponding to the obligations of the Claiming Party excused by Force Majeure.

8.4 **Force Majeure Exceptions.** Force Majeure shall not be based on (i) the loss of Buyer's Retail Load; (ii) Buyer's inability economically to use or resell the Full Requirements Service; (iii) the loss or failure of any portion of Seller's generation resource(s); or (iv) Seller's ability to resell the Full Requirements Service at a price greater than the pricing set forth herein.

ARTICLE 9 - NOTICES, REPRESENTATIVES OF THE PARTIES

9.1 **Notices.** Any notice, demand, or request required or authorized by this Agreement to be given by one Party to another Party shall be in writing. Such notice shall be sent by facsimile, electronic messaging (confirmed by telephone), courier, personally delivered or mailed, postage prepaid, to the representative of the other Parties designated in this Article 9. Any such notice, demand, or request shall be deemed to be given (i) when received by facsimile or electronic messaging, (ii) when actually received if delivered by courier, overnight mail or personal delivery, or (iii) three (3) days after deposit in the United States mail, if sent by first class mail.

Notices and other communications by Seller to Buyer shall be addressed to:

Brian Rasmusson, Public Works Director
City of Ada
900 West Main Street, PO Box 32
Ada, MN 56510-0032
Phone: (218) 784-5537
Email: brasmusson@adamn.gov

Notices and other communications by Buyer to Seller shall be addressed to:

Eric W. Pierce Origination & Wholesale Markets
Xcel Energy Services Inc.
1800 Larimer Street
Suite 1000
Denver, CO 80202
Phone: 303-571-2805

Email: eric.pierce@xcelenergy.com

Any Party may change its representative by written notice to the other Parties.

9.2 **Authority of Representative.** The Parties' representatives designated in Section 9.1 shall have full authority to act for their respective principals in all technical matters relating to the performance of this Agreement. The Parties' representatives shall not, however, have the authority to amend, modify or waive any provision of this Agreement unless they are authorized officers of their respective entities and such amendment, modification or waiver is made pursuant to Article 16.

ARTICLE 10 - LIABILITY, INDEMNIFICATION, AND RELATIONSHIP OF PARTIES

10.1 Limitation on Consequential, Incidental and Indirect Damages.

TO THE FULLEST EXTENT PERMITTED BY LAW, NEITHER BUYER NOR SELLER, NOR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, MEMBERS, PARENTS OR AFFILIATES, SUCCESSORS OR ASSIGNS, OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS, OR EMPLOYEES, SUCCESSORS OR ASSIGNS, SHALL BE LIABLE TO THE OTHER PARTY OR ITS MEMBERS, PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, SUCCESSORS OR ASSIGNS, FOR CLAIMS, SUITS, ACTIONS OR CAUSES OF ACTION FOR INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, MULTIPLE OR CONSEQUENTIAL DAMAGES CONNECTED WITH OR RESULTING FROM PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT, OR ANY ACTIONS UNDERTAKEN IN CONNECTION WITH OR RELATED TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY SUCH DAMAGES WHICH ARE BASED UPON CAUSES OF ACTION FOR BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE AND MISREPRESENTATION), BREACH OF WARRANTY, STRICT LIABILITY, STATUTE, OPERATION OF LAW, UNDER ANY INDEMNITY PROVISION OR ANY OTHER THEORY OF RECOVERY. THE PARTIES CONFIRM THAT THE EXPRESS REMEDIES AND MEASURES OF DAMAGES PROVIDED IN THIS AGREEMENT SATISFY THE ESSENTIAL PURPOSES HEREOF. FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, UNLESS OTHERWISE SPECIFIED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND THE OBLIGOR'S LIABILITY SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN, THE OBLIGOR'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY, SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. THE PROVISIONS OF THIS SECTION 10.1 SHALL APPLY REGARDLESS OF FAULT AND SHALL SURVIVE TERMINATION, CANCELLATION, SUSPENSION, COMPLETION OR EXPIRATION OF THIS AGREEMENT.

10.2 Indemnification.

- (a) Each Party shall indemnify, defend and hold harmless the other Party from and against any Claims arising from or out of any event, circumstance, act or incident occurring or existing during the period when control and title to Full Requirements Service is vested in such Party as provided in Section 10.4.
- (b) Each Party shall indemnify and hold harmless the other Party from and against any and all legal and other expenses, claims, costs, losses, suits or judgments for damages to any person or destruction of any property arising in any manner directly or indirectly by reason of the acts of such Party's authorized representatives while on the premises of the other Party under the rights of access provided herein. Seller assumes no responsibility of any kind with respect to curtailments or interruptions of Full Requirements Service due to MISO's activities.

- (c) Seller assumes no responsibility of any kind with respect to the construction, maintenance, or operation of the system or other property owned or used by Buyer; and Buyer agrees to protect, indemnify and save harmless Seller from any and all claims, demands, or actions for injuries to person or property by any person, firm or corporation in any way resulting from, growing out of, or arising in or in connection with (a) the construction, maintenance or operation of Buyer's system or other property, or (b) the use of, or contact with, Energy delivered hereunder after it is delivered to Buyer and while it is flowing through the lines of Buyer, or is being distributed by Buyer, or is being used by Buyer's Retail Load
- (e) If any Party intends to seek indemnification under this Section 10.2 from the other Party with respect to any Claim, the Party seeking indemnification shall give such other Party notice of such Claim within fifteen (15) days of the commencement of, or actual knowledge of, such Claim. Such Party seeking indemnification shall have the right, at its sole cost and expense, to participate in the defense of any such Claim. The Party seeking indemnification shall not compromise or settle any such Claim without the prior consent of the other Party, which consent shall not be unreasonably withheld.

10.3 **Independent Contractor Status.** Nothing in this Agreement shall be construed as creating any relationship among Buyer and Seller other than that of independent contractors for the sale and purchase of Full Requirements Service. Except to the extent Seller is authorized to act as Buyer's Designated Agent hereunder, no Party shall be deemed to be the agent of any other Party for any purpose by reason of this Agreement. No partnership or joint venture or fiduciary relationship among the Parties is intended to be created by this Agreement.

10.4 **Title; Risk of Loss.** Title to and risk of loss related to the Full Requirements Service shall transfer from Seller to Buyer at the Delivery Point. Seller warrants that it will deliver Full Requirements Service to Buyer free and clear of all Claims or any interest therein or thereto by any person arising prior to the Delivery Point.

ARTICLE 11 - REPRESENTATIONS AND WARRANTIES

11.1 **Representations and Warranties of Each Party.** Seller and Buyer each represents and warrants to the other that:

- (a) It is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation;
- (b) It has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement;
- (c) The execution, delivery and performance of this Agreement are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, including but not limited to any organizational documents, charters, by-laws, indentures, mortgages or any other contracts or documents to which it is a party or any law, rule, regulation, order or the like applicable to it;
- (d) This Agreement, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms, subject to any equitable defenses;
- (e) It is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it, which would result in it being or becoming bankrupt; and
- (f) There is not pending or, to its knowledge, threatened against it any legal proceedings that could materially and/or adversely affect its ability to perform its obligations under this Agreement.

11.2 **Buyer Additional Covenants.** Buyer represents, warrants and agrees to and with Seller that except as otherwise provided herein, with respect to its contractual obligations hereunder and performance thereof, it will not claim immunity on the grounds of its status as a municipality under Federal or state law or similar grounds with respect to itself or its revenues or assets from (i) suit, (ii) jurisdiction of court (including a court located outside the

jurisdiction of its organization), (iii) relief by way of injunction, order for specific performance or recovery of property, (iv) attachment of assets, or (v) execution or enforcement of any judgment.

ARTICLE 12 - ASSIGNMENT

12.1 **General Prohibition Against Assignments.** Except as provided in Section 12.2 below, no Party shall assign, pledge or otherwise transfer this Agreement or any right or obligation under this Agreement without first obtaining the other Party's written consent, which consent shall not be unreasonably withheld or delayed.

12.2 **Exceptions to Prohibition Against Assignments.** A Party may, without the other Party's prior written consent, (and without relieving itself from liability hereunder) (i) transfer, sell, pledge, encumber or assign this Agreement or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements; (ii) transfer or assign this Agreement to an Affiliate of such Party (which Affiliate shall be of equal or greater creditworthiness); or (iii) transfer or assign this agreement to any person or entity succeeding by merger or by acquisition to all or substantially all of the assets whose creditworthiness is equal to or higher than that of the assigning Party; provided, however, that in each such case, any such assignee shall agree in writing to be bound by the terms and conditions hereof.

ARTICLE 14 - REGULATORY AUTHORITIES

14.1 **Compliance with Laws.** Each Party shall perform its obligations hereunder in accordance with applicable laws, rules and regulations. Nothing contained herein shall be construed to constitute consent or acquiescence by either Party to any action of the other Party which violates the laws of the United States as those laws may be amended, supplemented or superseded, or which violates any other law or regulation, or any order, judgment or decree of any court or governmental authority of competent jurisdiction.

14.2 **Tariffs.** Each Party agrees if it seeks to amend any applicable FERC filed tariff during the Term, such amendment will not in any way affect this Agreement without the prior written consent of the other Party. Each Party further agrees that it will not assert, or defend itself, on the basis that any applicable tariff is inconsistent with this Agreement.

14.3 **FERC Approval.** The effectiveness of this Agreement will be contingent upon its acceptance for filing or approval by the FERC if Seller, in its discretion, concludes that it is necessary to file this Agreement with the FERC, provided that Seller makes such filing within ninety (90) days of the execution of this Agreement.

ARTICLE 15 - STANDARD OF REVIEW FOR PROPOSED CHANGES, DISPUTE RESOLUTION

15.1 **Standard of Review.** Except as otherwise provided herein, the terms and conditions and the rates for service specified in this Agreement shall remain in effect for the Term of the transaction described herein. Absent the Parties' written agreement, this Agreement shall not be subject to change by application of either Party pursuant to Section 205 or 206 of the Federal Power Act. Absent the agreement of both Parties to the proposed change, the standard of review for changes to this Agreement whether proposed by a Party, a non-party or the Federal Energy Regulatory Commission acting *sua sponte* shall be the "public interest" application of the "just and reasonable" standard of review of the "Mobile-Sierra Doctrine," as originally set forth in *United Gas Pipe Line v. Mobile Gas*

Service Corp., 350 U.S. 332 (1956) and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956) and as subsequently interpreted and applied by the U.S. Supreme Court in subsequent cases.

15.2 **Resolution by Officers or Officials of the Parties.** In the event of any dispute among the Parties arising out of or relating to this Agreement, the Parties shall refer the matter to their duly authorized officers or officials for resolution who shall meet within ten (10) days after notice is given by either Party. If within thirty (30) days after such meeting, the Parties have not succeeded in negotiating a resolution to the dispute then, the Parties, may, upon mutual agreement of the Parties, agree to binding arbitration before a single arbitrator. If the parties fail to select an arbitrator within thirty (30) days after mutual agreement to submit a matter to arbitration, the arbitrator shall be named in accordance with AAA's Rules for Non-administered Arbitration then in effect (the "Rules"). The Rules shall govern any such proceedings. Judgment upon any award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The Parties shall share equally the services and expenses of the arbitrator and each shall pay its own costs, expenses, and attorneys' fees. Fees and expenses of the court reporter shall be paid in equal parts by the Parties hereto.

In the event the Parties do not mutually agree to binding arbitration, **Seller and Buyer each hereby knowingly, voluntarily and intentionally waives any rights it may have to a trial by jury in respect of any litigation based hereon, or arising out of, under, or in connection with, this Agreement, any course of conduct, course of dealing, statements (whether oral or written) or actions of Seller and Buyer related hereto, and expressly agree to have any disputes arising under or in connection with this Agreement be adjudicated by a judge in any court of competent jurisdiction sitting without a jury, and each party waives any right to a trial by jury in such courts.**

ARTICLE 16 - GENERAL PROVISIONS

16.1 **Third Party Beneficiaries.** This Agreement is intended solely for the benefit of the Parties thereto, and nothing herein will be construed to create any duty to, or standard of care with reference to, or any liability to, any person not a Party hereto.

16.2 **Waivers.** The failure of a Party to insist in any instance upon strict performance of any of the provisions of this Agreement or to take advantage of any of its rights under this Agreement shall not be construed as a general waiver of any such provision or the relinquishment of any such right, except to the extent such waiver is in writing and signed by an authorized representative of such Party.

16.3 **Interpretation.** The interpretation and performance of this Agreement shall be in accordance with and controlled by the laws of the State of Minnesota.

16.4 **Modification.** No modification to this Agreement will be binding on any Party unless it is in writing and signed by the Parties.

16.5 **Counterparts.** This Agreement may be executed in counterparts, and each executed counterpart shall have the same force and effect as an original instrument.

16.6 **Headings.** Article and Section headings used throughout this Agreement are for the convenience of the Parties only and are not to be construed as part of this Agreement.

16.7 **Audit.** Each Party has the right, at its sole expense and during normal working hours, to examine the records of the other Party to the extent reasonably necessary to verify the accuracy of any invoice, charge or computation made pursuant to this Agreement. If requested, a Party shall provide to the other Party invoices evidencing the quantities of Full Requirements Service. If any such examination reveals any inaccuracy in any invoice, the necessary adjustments to such invoice and the payments thereof will be made promptly and shall bear interest calculated at the Prime Rate plus two percent (2%) from the date the overpayment or underpayment was made until paid; provided, however, that no adjustment for any statement or payment will be made unless objection to the accuracy thereof was made prior to the lapse of the twelve (12) months succeeding rendition thereof, and thereafter any objection shall be deemed waived.

16.8 **Records.** The Parties shall keep (or as necessary cause to be kept by their respective agents) for a period of at least five (5) years such records as may be needed to afford a clear history of the Full Requirements Service supplied pursuant to this Agreement. For any matters in dispute, the Parties shall keep the records related to such matters until the dispute is ended.

16.9 **Survival.** The provisions of Articles 10 and 13 shall survive the termination or expiration of this Agreement. Article 15, and Sections 16.8 and 16.9 of this Agreement shall survive termination or expiration of this Agreement for a period of one year after said termination or expiration.

ARTICLE 17 – RULES OF CONSTRUCTION

Terms used in this Agreement but not listed in this Article or defined in Article 1 shall have meanings as commonly used in the English language.

Words not otherwise defined herein that have well known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

The masculine shall include the feminine and neuter.

The words “include”, “includes” and “including” are deemed to be followed by the words “without limitation.”

References to contracts, agreements and other documents and instruments shall be references to the same as amended, supplemented or otherwise modified from time to time.

The Appendices attached hereto are incorporated in and are intended to be a part of this Agreement.

References to laws and to terms defined in, and other provisions of, laws shall be references to the same (or a successor to the same) as amended, supplemented or otherwise modified from time to time.

References to a person or entity shall include its successors and permitted assigns and, in the case of a governmental authority, any entity succeeding to its functions and capacities.

References to “Articles,” “Sections,” or “Appendices” shall be to articles, sections, or Appendices of this Agreement.

Unless the context plainly indicates otherwise, words importing the singular number shall be deemed to include the plural number (and vice versa); terms such as “hereof,” “herein,” “hereunder” and other similar compounds of the word “here” shall mean and refer to the entire Agreement rather than any particular part of the same.

This Agreement was negotiated and prepared by both Parties with the advice and participation of counsel. The Parties have agreed to the wording of this Agreement and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Agreement or any part hereof.

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this Agreement on their behalf as of the date first above written.

CITY OF ADA

By: _____

Name: Todd Sawrey

Title: Mayor

NORTHERN STATES POWER COMPANY,

a Minnesota corporation

By: _____

Name: Bryce Schneider

Title: Director Energy Trading & Origination

Xcel Energy Services Inc., Authorized Signatory for Northern States
Power Company, a Minnesota corporation

APPENDIX A

MISO INTERFACE SERVICES

- 1) The Seller shall register as the Asset Owner for the Buyer's load within MISO and accept responsibility for payments to MISO for all appropriate charges from MISO for service to the Buyer's load. Seller shall act as agent for transmission service requests of the MISO. Buyer shall reimburse Seller for any and all costs for this service incurred by Seller on behalf of the Buyer.
- 2) Seller shall submit to MISO:
 - a. Demand bids based on the Day Ahead ("DA") schedule developed by the Parties;
 - b. Bilateral financial energy transactions;
 - c. Meter data resubmittals;
 - d. Transmission service requests;
 - e. Tagging associated with energy schedules; and
 - f. Resource adequacy data to meet the requirements associated with Module E of the MISO Open Access Transmission, Energy, and Operating Reserve Markets Tariff.
- 3) Seller shall provide Buyer with updates of DA and Real Time ("RT") Locational Marginal Pricing ("LMP") data, including congestion and losses, at Buyer load nodes and energy delivery points upon request.
- 4) Seller shall provide Buyer with the following information and support on an as-needed basis:
 - a. Bilateral energy and capacity market purchases and sales;
 - b. Settlement discrepancies using Seller shadow software;
 - c. MISO dispute resolution for discrepancies that can be resolved in the next settlement cycle. If the MISO dispute involves complex discrepancies over multiple settlement cycles; the Seller shall identify an action plan with associated costs that Buyer shall have the option to pursue (e.g., RSG disputes or Independent Market Monitor disputes).
- 5) Buyer shall provide Seller said information as is necessary for Seller to perform the services contemplated by this Agreement on Buyer's behalf. In this connection, and without limiting the foregoing, Seller and Buyer agree to work together to develop and implement a load forecasting methodology followed by an evaluation to determine best forecasting practices.
- 6) Seller shall communicate to Buyer, as soon as practicable, issues related to data entry problems and MISO pending rule changes. Seller shall conduct regular meetings with Buyer to review performance under the contract based on a mutually agreeable schedule.
- 7) Seller shall be responsible for obtaining metering data from the Local Balancing Authority.
- 8) Seller shall also be responsible for the scheduling of Buyer's WAPA Contract energy and associated Auction Revenue Rights ("ARR") registration under the terms and conditions as follows:
 - a. Buyer hereby appoints Seller to act as agent and administrator for its ARR-Financial Transmission Rights ("FTRs") as of January 1, 2017; therefore Buyer shall notify its existing service provide that the Seller shall become the GFA responsible entity for GFA #352 in the MISO market for delivery of Buyer's WAPA Contract energy. Seller shall consult with Ada when identifying the appropriate strategy concerning taking the ARR payment or converting the ARR to purchase FTRs as a hedge against

congestion. Any MISO credits or charges received for the FTRs or ARR associated with the WAPA Contract energy shall be passed through to Buyer.

b. Buyer names Seller to act as agent and administrator for scheduling Buyer's WAPA Contract energy in the MISO market. Seller shall coordinate with WAPA on the process for submitting and receiving energy schedules. All MISO charges associated with delivery of the WAPA Contract energy, including losses and energy purchased from the MISO market during curtailments shall be the responsibility of Buyer and shall be passed through on the monthly power supply invoice from Seller.

c. Buyer names Seller to act as agent and administrator for all other provisions associated with Buyer's WAPA Contract and interface with the MISO market.

Should there be changes within MISO that significantly alter the scope of services under this Agreement, the Parties shall outline the changes and determine a mutually agreed upon modification to this Agreement including the pricing provision.

APPENDIX B

LETTER OF AGENCY

City of Ada ("Buyer"), appoints Northern States Power Company, a Minnesota corporation ("Seller"), and Seller accepts such appointment, as agent to act on behalf of Buyer in accordance with the terms of the Parties' Market Based Rate Full Requirements Service Agreement dated April 11 ____, 2018 ("Full Requirements Agreement" or "Agreement") as follows:

1. Seller shall act as the Buyer's representative in dealing directly with the Midcontinent Independent System Operator, Inc. ("MISO") with respect to matters relating to the provision of electric service under the Full Requirements Agreement and matters relating to the charges and credits set forth in Appendix B thereto. Without limitation, such activities shall include bidding Buyer's load into the MISO market, nominating and obtaining Financial Transmission Rights/Auction Revenue Rights and Long-Term Firm Transmission Rights applicable to the Full Requirements Service provided under the Agreement, and other Market Participant related responsibilities required by the Full Requirements Agreement.
2. Seller shall also provide any requested assistance in the development and administration of Buyer's network integration transmission service agreement and other related agreements to be entered into by Buyer for the delivery of the Full Requirements Service to be sold by Seller to Buyer under the Full Requirements Agreement.
3. There shall be no separate charges billed under this Letter of Agency; as all costs and charges associated with Seller's services are included in the Full Requirements Agreement. This Letter of Agency shall not be construed to create or give rise to any liability on the part of MISO or Seller, and Buyer waives any such claims that may arise against MISO under this Letter of Agency. This Letter of Agency shall not be construed to modify any of the Related Documents as defined in the Full Requirements Agreement, and in the event of conflict between this Letter of Agency and any Related Agreement, the Related Agreement shall control.
4. Upon termination of this Agreement, Seller shall not act as Market Participant on behalf of Buyer (unless otherwise agreed) and shall advise MISO about this termination. Further, Seller shall notify the Transmission Provider that it is no longer acting as Buyer's agent.

EXHIBIT A

|

|

\$ _____

At sight, pay to the order of [Name of Beneficiary to be inserted], the amount of USD \$ _____ (_____ and 00/100ths U.S. Dollars).

Drawn under [Name of Issuer to be inserted] Standby Letter of Credit No. _____.

Dated: _____, 20__

[Name of Beneficiary to be inserted]

By: _____

Its Authorized Representative

[Title or Other Official Capacity to be inserted]

To: [Name and Address of Issuer to be inserted]

|
|
|

IRREVOCABLE STANDBY LETTER OF CREDIT NO: _____

CURRENT BENEFICIARY:

APPLICANT:

TO: [NAME OF ISSUING BANK]

The undersigned, as the current "Beneficiary" of the above referenced Letter of Credit, hereby requests that you reissue the Letter of Credit in favor of the transferee named below [INSERT TRANSFEREE NAME AND ADDRESS BELOW]:

From and after the date this transfer request is delivered to the Issuer, all rights of the undersigned Beneficiary in such Letter of Credit are transferred to the transferee, and the transferee shall have the sole rights as Beneficiary thereof, including sole rights relating to any amendments, whether increases or extensions or other amendments agreed between the parties, whether now existing or hereafter made. All amendments are to be advised directly to the transferee without necessity of any consent of or notice to the undersigned transferor.

DATED: _____

[NAME OF BENEFICIARY]

[NOTARY ACKNOWLEDGMENT]

By: _____
Name: _____
Title: _____

[TO BE SIGNED BY A PERSON PURPORTING TO BE AN AUTHORIZED REPRESENTATIVE OF THE BENEFICIARY AND INDICATING THEIR TITLE OR OTHER OFFICIAL CAPACITY, AND ACKNOWLEDGED BY A NOTARY PUBLIC.]

CITY OF ADA

By: _____

Name: Todd Sawrey

Title: Mayor

NORTHERN STATES POWER COMPANY,

a Minnesota corporation

By: _____

Name: Bryce Schneider

Title: Director Energy Trading & Origination

Xcel Energy Services Inc., Authorized Signatory for Northern States Power Company, a Minnesota corporation

Ordinance No. 475

An Ordinance Amending City of Ada Intoxicating Liquor Licenses Chapter 6, Sections 51 and 59 and 3.2 Percent Malt Liquor Licenses Chapter 6, Section 91

This ordinance would amend Chapter, 6, Sections 51, 59 and 91 of the City Code as follows:

SECTION 1. Code Sec. 6-51 is hereby amended to read as follows:

(b) *On-sale licenses.* On-sale licenses shall be issued only to hotels, clubs, restaurants and exclusive liquor stores and shall permit on-sale of liquor only, with a minimum seating capacity of 20 persons.

SECTION 2. Code Sec. 6-59 is hereby amended to read as follows:

(3) *Sales of intoxicating malt liquors; conditions.* The city council may permit, with the approval of the state commissioner of public safety, persons who are licensed to sell 3.2 percent malt liquor and on-sale wine to sell intoxicating malt liquors, if the applicant operates a restaurant having facility for seating at least 20 guests at one time.

SECTION 3. Code Sec. 6-91 is hereby amended to read as follows:

No 3.2 percent malt liquor license shall be issued but to the proprietor of the business.

SECTION 4. Effective Date: This ordinance shall become effective thirty (30) days after publication.

Upon being put to a vote, the above Ordinance was duly passed after a second reading by the City Council of the City of Ada this 23RD day of April, 2018 by the following vote:

Ayes:

Nays:

Absent:

Todd Sawrey, Mayor

ATTEST:

James Leiman, Administrator, Clerk-Treasurer

COMMERCIAL LEASE AGREEMENT

The City of Ada, a political subdivision of the State of Minnesota (the "Landlord"), and **DUNK** (the "Tenant") make and enter into this Commercial Lease Agreement (the "Lease") dated effective as of May 13, 2018 (the "Effective Date").

RECITALS

- A. Landlord is the owner of certain retail space (the "Building") in Norman County, Minnesota, located in the Northeast 2,400 square foot bar area, at 415 W. Main Street, Ada, and legally described as LOT 4, N1/2 LOT 3 AND S1/2 OF LOT 5 BLK2, ORIGINAL TOWNSITE, City of Ada (PID No.: 25-0031000) (the "Retail Space"), including all parking areas, driveways, fixtures, signage, equipment, and improvements thereon (collectively, the "Land").
- B. Landlord desires to lease to Tenant, and Tenant desires to lease from Landlord, the Retail Space, together with any easements, privileges, and rights appurtenant to the Land or the Building (the "Leased Premises").

In consideration of the parties' mutual covenants and representations in this Lease and for other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties agree as follows:

- 1. LEASED PREMISES: Landlord leases to Tenant, and Tenant leases from Landlord, the Leased Premises for the term set forth in this Lease, as may be renewed and/or extended from time to time.
- 2. TERM: The term of the Lease for use and occupancy of the Leased Premises by Tenant shall commence May 13, 2018, and shall continue for an initial term of one (3) years terminating May 31, 2021 (the "Initial Term"), unless earlier terminated as provided for herein.
- 3. TERM EXTENSION: Provided that Tenant has complied with all of the terms and conditions of this Lease, after the expiration of the Term, the Lease shall automatically renew for successive one (1) month periods (the "Renewal Term"); however, following the commencement of any Renewal Term, either party may terminate the Lease so long as the terminating party provides sixty (60) days' advance written notice, pursuant to Section 22(f).
- 4. USE; INSPECTION: Tenant agrees that the Leased Premises shall be used and occupied in accordance with the laws and ordinances of the City of Ada, respectively, as well as the laws and ordinances of the County of Norman and State of Minnesota, when applicable. Notwithstanding anything to the contrary in this Lease, Tenant shall not use the Leased Premises, or permit the Leased Premises to be used, for any purposes other than as set forth in this Lease without the prior written consent of Landlord. This facility will only be used as a retail space unless otherwise approved by the landlord.

Prior to undertaking occupancy of the Leased Premises, Tenant warrants and represents that it has inspected the Leased Premises to its full satisfaction, and that Tenant accepts the Leased Premises in its present condition, AS-IS, WHERE-IS, WITH ALL FAULTS, if any.

5. CONSIDERATION: In consideration of, among other things, the use of the Leased Premises, commencing on June 1, 2018, the Tenant shall contribute \$500 per month to Tenant, payable on or before the commencement of the term and any and all subsequent terms (the "Base Rent"), as well as \$500 per month for utilities, a total of \$1,000 per month, to the Landlord at 15 4th Avenue East, Ada, Minnesota 56510.

Landlord shall be responsible for all costs relating to the use, operation and maintenance of the Leased Premises, including, without limitation: (i) lawn care; and (ii) replacement and maintenance of the utility systems and structural components of the Leased Premises, including, without limitation, roof, walls, exterior windows, foundation, HVAC units, electrical, heating, plumbing, and sanitary sewer systems, and sidewalks.

Landlord shall be responsible for all utilities at the Leased Premises with the exception of snow removal of the sidewalk, television and phone.

6. MAINTENANCE; REPAIRS: Tenant, at its own expense, shall keep, maintain, and repair all aspects of the Leased Premises in good working order, full state of repair and good condition during the term of this Lease up to One Hundred and No/100 Dollars (\$100.00) per occurrence. As such, the first \$100 toward any maintenance will be the responsibility of the tenant. Landlord, at its own expense, shall repair Leased Premises if repair costs exceed One Hundred and No/100 Dollars (\$100.00) per occurrence. Tenant shall keep the Leased Premises continually in a neat, clean and respectable condition, and all garbage and refuse shall be removed promptly. Tenant, at its own expense, shall keep and maintain in good working order and state of repair the Leased Premises. Except as otherwise stated herein, Tenant shall, at its own expense, make such repairs to the Leased Premises as are requested by Landlord and necessary to keep the Leased Premises in good condition and state of repair.

7. INSURANCE: Tenant shall procure and carry General Liability Insurance in the amount acceptable by the landlord. In addition, Tenant will carry Liquor Liability "Dram Shop" Insurance. Tenant shall procure and carry, at its sole expense, insurance on improvements, trade fixtures, equipment, partitions, shelving, and other removable articles installed by the Tenant. Any liability arising under this Lease and/or Tenant's use of the Leased Premises is not limited by such minimum limits or types of insurance. Tenant's policies shall name Landlord as an "additional insured" by endorsement on the liability insurance policy and shall contain a waiver of subrogation against Landlord, and Tenant shall provide a Certificate of Insurance documenting such coverage.

8. INDEMNIFICATION/HOLD HARMLESS: The Tenant agrees to at all times protect, defend, indemnify, save and hold harmless the Landlord, its employees, partners, agents, officers, and other representatives, against and from any and all claims, losses, expenses, and demands, or any nature whatsoever, arising out of or from any accidents or other occurrences, of any nature, on or about the Leased Premises causing injury to any person, persons, or property, whomsoever or whatsoever, including claims of third parties, sub-tenants, invitees, or entrants on

the Leased Premises. The obligations of Tenant under this subdivision shall survive termination of this Lease.

It is expressly agreed that as one of the material considerations of this Lease, without which it would not be granted, Tenant assumes all risk of injury to or death of all persons and damage to or loss or destruction of buildings, contents, or other property brought upon or in proximity to the Leased Premises by Tenant, or by any other person, without regard to whether such would be the result of negligent or other conduct of Landlord, its agents, employees, officers, shareholders, or other representatives, and that Landlord shall not be liable for any injury to persons or property, whether belonging to third parties or Tenant, it being agreed that Tenant will defend, protect, indemnify, and hold Landlord harmless from all the foregoing.

Tenant agrees that Landlord, its employees, officers, shareholders, agents, and other representatives shall not be liable to Tenant, its employees, agents, or invitees for, and Tenant hereby releases such parties from, any damage, compensation, claims, or causes of action, arising from: Tenant's use and occupancy of the Leased Premises; loss or damage to personal property or trade fixtures in the Leased Premises; lost business or other consequential damage arising out of any interruption in the use of the Leased Premises; and any criminal, negligent, wrongful, or other act by any person.

9. REAL ESTATE TAXES; SPECIAL ASSESSMENTS: Landlord shall pay all general real estate taxes and installments of special assessments, if applicable, during the Term of this Lease, as may be extended from time to time.

10. DEFAULT: If the rental payments, or other payments required of Tenant herein, whether the same be demanded or not, are not paid when they become due; or if any damage or waste shall be made to or on the Leased Premises; or if any term, condition or covenant of this Lease on the part of the Tenant to be by Tenant kept or performed, shall be violated or neglected, then and in any of said cases the Tenant does hereby authorize and fully empower said Landlord or its agents to cancel and annul this Lease upon 15 days' prior written notice and to re-enter and take possession of the Leased Premises immediately, and by force, if necessary; and remove all persons and their property therefrom and to use such force and assistance in effecting and perfecting such removal as Landlord may deem advisable to recover at once full and exclusive possession of the Leased Premises, whether in possession of Tenant or of third persons, or vacant. Landlord or its agents may at any time after such default or violation of condition or covenant, re-enter and take possession of the Leased Premises, without such re-entering working a forfeiture of the rents to be paid and the covenants to be kept by Tenant for the full term of this Lease.

The Tenant shall pay, upon demand, all of Landlord's costs, charges and expenses, including the reasonable fees of counsel, agents and others retained by the Landlord, incurred in enforcing the Tenant's obligations hereunder or incurred by the Landlord in any litigation in which the Landlord becomes involved or concerned by reason of the existence of this Lease or the relationship hereunder of the Landlord and the Tenant.

11. RIGHT OF ACCESS: Tenant shall allow Landlord and/or its agents or employees access to the Leased Premises at all reasonable times during the term of the Lease.

12. IMPROVEMENTS/ALTERATIONS: Tenant shall not make any material alterations or improvements to the Leased Premises or commence any material remodeling without the prior written consent of the Landlord. In the event of any such alterations, improvements, or remodeling, said activity shall be at Tenant's own expense and upon termination of this Lease, any such alterations, improvements, or remodeling shall become the property of and part of the Leased Premises for the benefit of Landlord. Landlord agrees to replace the ceiling tiles and flooring.

13. LIENS: Tenant shall promptly pay for any work done in or about the Leased Premises contracted by it or others on its behalf, and will not permit or suffer any mechanic's liens to attach to the Leased Premises which are a result thereof and shall promptly cause any claim for any such lien to be released or shall secure Landlord to its satisfaction in the event the Tenant desires to contest any such claim.

14. BANKRUPTCY: In the event of voluntary or involuntary bankruptcy on the part of the Tenant, or the appointment of a receiver for the Tenant, or a voluntary assignment for creditors by the Tenant, or if this Lease shall by operation of law devolve upon or pass to any person or corporation other than the Tenant, then and in each of said events, this Lease shall, at the option of the Landlord, be subject to immediate cancellation forthwith.

15. SUBORDINATION: This Lease and the Tenant's rights under this Lease are and shall always be subordinate to the lien of any mortgage, mortgages or other security now or hereafter placed upon the land and buildings of which the Leased Premises are a part, and to all advances hereafter made from time to time upon the security thereof.

16. CONDEMNATION: If the Leased Premises or any part thereof shall be taken or condemned for public purposes by public authorities, the Tenant shall have no claim against the Landlord and shall not have any claim or right to any portion of the amount that may be awarded or paid to the Landlord as a result of any such condemnation. Tenant assigns to Landlord all claims it may have in condemnation matters.

17. WAIVER: No waiver by Landlord of any default by Tenant hereunder shall be implied from any omission by Landlord to take any action on account of such default if such default persists or is repeated and no express waiver shall affect any default other than the default specified in the expressed waiver, and then only for the time and extent therein stated. One or more waivers of any covenant, term or condition of this Lease by Landlord shall not be construed as a waiver of a subsequent breach of the same covenant, term or condition. The invalidity or unenforceability of any provisions hereof shall not affect or impair any other provisions.

18. ASSIGNMENT: Tenant will not assign this Lease, or sublet or underlet the Leased Premises, or any part thereof, without the prior written consent of Landlord. Tenant shall defend, indemnify, and hold Landlord harmless from all sub-tenant claims or other matters.

19. SALE: In the event Landlord sells the Leased Premises, the Lease will terminate effective on the closing date of the sale of the Leased Premises. If there is such a sale, Tenant will receive a refund of rent paid, prorated over the number of days left on the Lease. Landlord shall promptly give notice of any sale to Tenant.

20. SURRENDER OF PREMISES: Upon termination of this Lease in any manner whatsoever, Tenant shall remove Tenant's goods and effects and those of all persons claiming under the Tenant and shall quit and deliver the Leased Premises to the Landlord, peaceably and quietly, in as good order and condition as the same were in on the date the Initial Term commenced or were thereafter placed in by the Landlord or Tenant, reasonable wear and tear excepted. Any property not removed shall be deemed abandoned, and Tenant shall be liable for all costs of removal and Tenant shall indemnify, defend and hold Landlord harmless from any cost or liability due to disposition of any property in the Leased Premises in which a person other than Tenant has an interest.

21. HOLDING OVER: Tenant will, at the termination of this Lease by lapse of time or otherwise, yield immediate possession of the Leased Premises to Landlord. If Tenant retains possession of the Leased Premises or any part thereof after such termination, then Landlord may, at its option, serve written notice upon Tenant that such holding over constitutes either: (a) creation of a month-to-month tenancy, upon the terms and conditions set forth in this Lease, or (b) creation of a tenancy at sufferance. If subparagraph (a) of this paragraph is elected, the FMV shall be equal to one hundred twenty percent (120%) of the FMV being paid annually to Landlord under this Lease immediately prior to such termination. If subparagraph (b) is elected or no such notice is served, then a tenancy at sufferance shall be deemed to be created at a rate equal to one hundred twenty-five percent (125%) of the FMV being paid annually to Landlord under this Lease immediately prior to such termination (prorated in the case of (b) on the basis of a 365 day year for each day Tenant remains in possession). This paragraph shall not constitute a waiver by Landlord of any right of re-entry as herein set forth nor shall receipt of any Rent or any other act in apparent affirmance of the tenancy operate as a waiver of the right to terminate this Lease for a breach of any of the terms, covenants, or obligations herein on Tenant's part to be performed.

22. MISCELLANEOUS:

(a) All the covenants, terms and conditions of this Lease shall extend, apply to and firmly bind the heirs, executors, administrators and assigns of the respective parties hereto as fully as the respective parties are themselves bound. Time is an essential part hereof.

(b) This Lease may be modified only by way of a written and signed Amendment by and between Landlord and Tenant.

(c) Tenant shall keep the premises free of any hazardous materials or hazardous substances (as defined by the United States Environmental Protection Agency), except for those materials and substances used in the ordinary course of Tenant's business and in compliance with all local, state, and federal laws and regulations. Tenant shall indemnify and hold Landlord harmless for any hazardous waste cost, cleanup, fine, damage, penalty, or judgment resulting from any hazardous materials or hazardous substances introduced onto the premises during the Lease term. The obligations of Tenant under this subdivision shall survive termination of this Lease. Landlord indemnifies that there are currently no hazardous materials or substances on property.

(d) Nothing contained herein shall be deemed or construed by anyone as creating the relationship of principal and agent or of partnership or of joint venture between the parties to this Lease.

(e) The laws of the state of Minnesota shall govern the validity, performance and enforcement of this Lease. Any disputes or other proceedings relating to this Lease or the parties' performance hereunder, shall be venued in Norman County, Minnesota.

(f) Any and all notices or other communication provided for in this Lease shall be given in writing, by registered or certified mail which, unless otherwise designated by a party by written notice in accordance with this section, shall be addressed as follows:

To Landlord: City of Ada
 City Administrator
 15 4th Avenue East
 Ada, MN 56510

To Tenant: _____

(g) All rent payments shall be made without demand, deduction, or setoff.

(h) TENANT TAKES THE LEASED PREMISES "AS IS", AND TENANT ACKNOWLEDGES THAT LANDLORD (WHETHER ACTING AS LANDLORD HEREUNDER OR IN ANY OTHER CAPACITY) HAS NOT MADE AND WILL NOT MAKE, NOR SHALL LANDLORD BE DEEMED TO HAVE MADE, ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE LEASED PREMISES, INCLUDING ANY WARRANTY OR REPRESENTATION AS TO ITS FITNESS FOR USE OR PURPOSE, DESIGN OR CONDITION FOR ANY PARTICULAR USE OR PURPOSE, AS TO THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, LATENT OR PATENT, OR AS TO VALUE, COMPLIANCE WITH SPECIFICATIONS, LOCATION, USE, CONDITION, MERCHANTABILITY, QUALITY, DESCRIPTION, DURABILITY OR OPERATION, IT BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY TENANT.

(i) This Lease may be executed in any number of counterparts, all of which together shall constitute the Lease. Facsimile, scanned PDF or other electronic signatures shall be sufficient for all purposes.

(j) In recognition of the fact that Building is owned by a political subdivision, Dunk shall comply with the requirements of Minn. Stat. § 340A.909 by ensuring that a Minnesota-produced beer is available for purchase at each station where beer is sold.

(k) Dunk certifies that it intends to regularly prepare meals on the premises served at tables to the general public, and will obtain all necessary restaurant licenses required to be held by a restaurant operating in the State of Minnesota.

LANDLORD:

City of Ada

By _____
Todd Sawrey
Mayor

By _____
James Leiman
City Administrator, Clerk and Treasurer

TENANT:

By _____

Its Chief Executive Officer

Event Center Ceiling

April 11, 2018

Mike Skansgaard
Skansgaard Construction LLC
204 4th Ave E
Ada, MN 56510
Mobile 218-474-0156
SkansgaardConstruction@gmail.com

Estimate



Project

Event Center Ceiling

LABOR ONLY

Description	Cost
Ceiling Panel Suspension Grids, 2' x 4' grid with wire suspension, per square foot, 15/16" flange Typical costs, 15/16" flange, plain white. Add panel costs below.	5,347.50
Ceiling Panels, Lay-in Type, 2' x 4' suspended ceiling panels, 5/8" fissured fire code Costs per SF of ceiling area covered. No waste included. Add suspension grid system cost from preceding pages.	4,557.00
Project Total	9,904.50

We appreciate your business and look forward to working with you.
Homeowners are responsible for permits and fees

Approved By:

Date: 4/11/18

Date: _____

Contractor  Customer _____

Mike Skansgaard
Skansgaard Construction LLC
204 4th Ave E
Ada, MN 56510
Mobile 218-474-0156
SkansgaardConstruction@gmail.com

Estimate



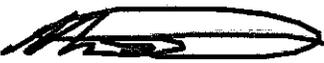
Project
Event Center Bar

LABOR ONLY

Description	Cost
Ceiling Panels, Lay-in Type, 2' x 4' suspended ceiling panels, 5/8" fissured fire code Costs per SF of ceiling area covered. No waste included. Add suspension grid system cost from preceding pages.	1,953.00
Flooring, Floating hardwood flooring, Cork underlayment, 1/4", 200 SF roll Tongue and groove. Install over concrete or other subfloor using an underfloor membrane. Edges and ends glued. Based on 3/8" gap at walls covered with 1/2" base or quarter round molding. The labor estimates below include laying the membrane, hardwood flooring and gluing.	4,278.00
Project Total	6,231.00

We appreciate your business and look forward to working with you.
Homeowners are responsible for permits and fees

Approved By: _____ Date: 4/11/18 Date: _____

Contractor  _____ Customer _____