

Appendix D: Road Use Agreements

Road Haul Agreement

by and between

Scandinavia Township and Otter Tail Power Company

This agreement is entered this 14th day of Feb, 2019, by and between Scandinavia Township, South Dakota, (the "Township") and Otter Tail Power Company (hereinafter "Otter Tail").

WHEREAS, Otter Tail intends to construct a new Simple Cycle Gas Turbine electric generation facility and related infrastructure (hereinafter "Astoria Station") in Scandinavia Township;

WHEREAS, construction of Astoria Station will involve transportation and operation of trucks and equipment in and adjacent to Township road rights-of-way;

WHEREAS, during construction and commissioning, it is anticipated that Otter Tail and Astoria Station contractors will utilize Township roads from an estimated construction commencement date of May 1, 2019 through an anticipated commissioning date of July 31, 2021;

WHEREAS, pursuant to SDCL 49-41B the South Dakota Public Utilities Commission granted a permit to construct the Astoria Station;

WHEREAS, pursuant to the permit, Otter Tail is required to acquire all necessary permits authorizing the crossing of county and township roads, and to follow all applicable laws and regulations regarding vehicle requirements and weight limits; and

WHEREAS, the Township and Otter Tail are desirous of a cooperative relationship whereby public rights-of-way will be used and, upon completion of construction, restored as near as possible to pre-construction conditions;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

Otter Tail and its representatives may use the Township road rights-of-way in their reasonable discretion in connection with construction and commissioning of the Astoria Station, subject to the following terms and conditions:

- A. Otter Tail shall conduct a pre-construction assessment to document the pre-construction condition of the Township road rights-of-way that are anticipated to be used during construction and commissioning of Astoria Station and such anticipated roads are listed on **Exhibit A** and depicted on **Exhibit B**.
- B. The pre-construction assessment shall identify the condition of the road rights-of-way, including width of subgrade; type, thickness and width of surfacing material; and type, size and location of drainage structures, as well as other highway appurtenances.
- C. Otter Tail shall provide Township with the assessment reports of road rights-of-ways and conduct a pre-construction meeting with Township officials.

- D. Otter Tail shall conduct a post-construction assessment to document post-construction/post-restoration condition if Township road rights-of-way and provide the assessment report to Township.
- E. Otter Tail will coordinate with the Township to ensure road surfaces are maintained and passable during the Astoria Station construction and commissioning activities. Otter Tail shall promptly reimburse the Township for any costs incurred for road maintenance needed as a result of construction activities with 30 days from date of billing. This does not include snow removal on existing roads, which will be the responsibility of the Township.
- F. The Township and Otter Tail representatives shall conduct a post-construction/post-restoration meeting to review post-construction/post-restoration rights-of-way conditions. Otter Tail will return roads and rights-of-way to their pre-construction condition.
- G. Unloading equipment and supplies from the roadway is permitted with proper warning signs for brief periods. Materials and equipment shall not be stored or parked on existing roadways except during unloading operations. Otter Tail shall be responsible for signage that identifies road closures and disturbance resulting from the construction and commissioning of Astoria Station.
- H. Mud from vehicles shall be cleaned off prior to entering roadways. Should mud be tracked onto the roadway, it shall be removed promptly if it presents a hazard to the public or if the Township requests that it be removed.
- I. Gravel surfaced roadways that become rutted or irregular due to hauling shall be smoothed out as needed. Gravel surfacing will be placed in areas where excessive damage has occurred. Dust control measures such as road watering or chemical application will be conducted to reduce wind-blown particles as needed throughout the construction process. This will be done as needed to keep the roadway in a safe and usable condition or as the Township requests in order to keep the roadway in a safe and usable condition.
- J. Construction operations should be modified when wet conditions exist to prevent damage to the roadway surface. Otter Tail will follow all weight restrictions, including seasonal load limitations on roads.
- K. Damage to isolated areas shall be repaired by leveling the areas. Roads use by Otter Tail will be returned to their pre-construction condition. Gravel will be added on those road surfaces in need of additional gravel either during or after Astoria Station construction.
- L. State and county highways shall be used as much as possible for hauling materials and equipment. Haul roads shall be designated to spread out the usage to prevent damage and keep the heavy loading on as few roadways as possible. This may mean that some haul distances will be increased by using these roadways. There may be instances in which roads not listed are used by Otter Tail in emergency or other circumstances.
- M. If the post-construction/post-restoration assessment shows that the Township road rights-of-way (including roads, drive approaches, culverts, and ditches) were damaged by Otter Tail or its representatives in connection with the Astoria Station construction and commissioning then, after consulting with Otter Tail and giving it the opportunity to provide input as to the reasonably necessary corrective action to be taken, such damage will be repaired by the

Township or its representatives, which shall be promptly reimbursed for the reasonable costs of such work.

- N. Otter Tail shall furnish a \$250,000 Indemnity Bond to comply with the requirements of SDCL 49-41B-38. Such Bond shall be issued in favor of, and for the benefit of Township and County.
- O. Otter Tail agrees to defend and indemnify the Township from any claims made or damages sought with respect to Astoria Station construction and commissioning, except that Otter Tail shall not defend and indemnify the Township to the extent such claims or damages are based on the conduct of the Township.
- P. Otter Tail will be responsible for providing and managing any appropriate work zone traffic control required for the construction and commissioning of Astoria Station. Otter Tail representatives will remain in consistent contact with the Township, as appropriate, to ensure the Township is aware of the construction status and road usage.
- Q. Should Otter Tail need to widen any existing Township roadways during construction, Otter Tail will return roadways to original width after completion of Astoria Station, unless agreed upon otherwise with the Township. The Township agreed that the road upgrades to 482nd Avenue that are indicated in the Memorandum of Understanding between Scandinavia Township and Otter Tail dated March 6, 2018 will be considered a permanent upgrade.

Otter Tail Power Company

Scandinavia Township

Kirk Phinney
Print Name

Doyle Trooien
Print Name

[Signature]
Signature

[Signature]
Signature

Manager, Supply Engineering
Title

Chairman
Title

2-11-19
Date

2-12-19
Date

Road Haul Agreement

by and between

Deuel County and Otter Tail Power Company

This agreement is entered this 11 day of Feb., 2019, by and between Deuel County, South Dakota, (the "County") and Otter Tail Power Company (hereinafter "Otter Tail").

WHEREAS, Otter Tail intends to construct a new Simple Cycle Gas Turbine electric generation facility and related infrastructure (hereinafter "Astoria Station") in Scandinavia Township;

WHEREAS, construction of Astoria Station will involve transportation and operation of trucks and equipment in and adjacent to County road rights-of-way;

WHEREAS, during construction and commissioning, it is anticipated that Otter Tail and Astoria Station contractors will utilize County roads from an estimated construction commencement date of May 1, 2019 through an anticipated commissioning date of July 31, 2021;

WHEREAS, pursuant to SDCL 49-41B the South Dakota Public Utilities Commission granted a permit to construct the Astoria Station;

WHEREAS, pursuant to the permit, Otter Tail is required to acquire all necessary permits authorizing the crossing of county and township roads, and to follow all applicable laws and regulations regarding vehicle requirements and weight limits; and

WHEREAS, the County and Otter Tail are desirous of a cooperative relationship whereby public rights-of-way will be used and, upon completion of construction, restored as near as possible or better to pre-construction conditions;

NOW, THEREFORE, in consideration of the mutual promises set forth herein, the parties agree as follows:

Otter Tail and its representatives may use the County road rights-of-way in their reasonable discretion in connection with construction and commissioning of Astoria Station, subject to the following terms and conditions:

- A. Otter Tail and County shall jointly conduct a pre-construction assessment to document the pre-construction condition of the County road rights-of-way that are anticipated to be used during construction and commissioning of Astoria Station and such anticipated roads are listed on **Exhibit A** and depicted on **Exhibit B**.
- B. The pre-construction assessment shall identify the condition of the road rights-of-way, including width of subgrade; type, thickness and width of surfacing material; and type, size and location of drainage structures, as well as other highway appurtenances.
- C. Otter Tail shall provide County with the assessment reports of road rights-of-ways and conduct a pre-construction meeting with officials.

- D. Otter Tail and County shall jointly conduct a post-construction assessment to document post-construction/post-restoration condition of County road rights-of-way and provide the assessment report to County.
- E. Otter Tail will coordinate with the County to ensure road surfaces are maintained and passable during the Astoria Station construction and commissioning activities. Otter Tail shall promptly reimburse the County for any costs incurred for road maintenance needed as a result of construction activities with 30 days from date of billing. This does not include snow removal on existing roads, which will be the responsibility of the County.
- F. The County and Otter Tail representatives shall conduct a post-construction/post-restoration meeting to review post-construction/post-restoration rights-of-way conditions. Otter Tail will return roads and rights-of-way to their pre-construction condition.
- G. Unloading equipment and supplies from the roadway is permitted with proper warning signs for brief periods. Materials and equipment shall not be stored or parked on existing roadways except during unloading operations. Otter Tail shall be responsible for signage that identifies road closures and disturbance resulting from the construction and commissioning of Astoria Station.
- H. Mud from vehicles shall be cleaned off prior to entering roadways. Should mud be tracked onto the roadway, it shall be removed promptly if it presents a hazard to the public or if the County requests that it be removed.
- I. Gravel surfaced roadways that become rutted or irregular due to hauling shall be smoothed out as needed. Gravel surfacing will be placed in areas where excessive damage has occurred. Dust control measures such as road watering or chemical application will be conducted to reduce wind-blown particles as needed throughout the construction process. This will be done as needed to keep the roadway in a safe and usable condition or as the County requests in order to keep the roadway in a safe and usable condition.
- J. Construction operations should be modified when wet conditions exist to prevent damage to the roadway surface. Otter Tail will follow all weight restrictions, including seasonal load limitations on roads.
- K. Damage to isolated areas shall be repaired by leveling the areas. Roads use by Otter Tail will be returned to their pre-construction condition. Gravel will be added on those road surfaces in need of additional gravel either during or after Astoria Station construction.
- L. State and county highways shall be used as much as possible for hauling materials and equipment. Haul roads shall be designated to spread out the usage to prevent damage and keep the heavy loading on as few roadways as possible. This may mean that some haul distances will be increased by using these roadways. There may be instances in which roads not listed are used by Otter Tail in emergency or other circumstances.
- M. If the post-construction/post-restoration assessment shows that the County road rights-of-way (including roads, drive approaches, culverts, and ditches) were damaged by Otter Tail or its representatives in connection with the Astoria Station construction and commissioning then, after consulting with Otter Tail and giving it the opportunity to provide input as to the reasonably necessary corrective action to be taken, such damage will be repaired by the County

or its representatives, which shall be promptly reimbursed for the reasonable costs of such work.

- N. Otter Tail shall furnish a \$250,000 Indemnity Bond to comply with the requirements of SDCL 49-41B-38. Such Bond shall be issued in favor of, and for the benefit of Township and County.
- O. Otter Tail agrees to defend and indemnify the County from any claims made or damages sought with respect to Astoria Station construction and commissioning, except that Otter Tail shall not defend and indemnify the County to the extent such claims or damages are based on the conduct of the County.
- P. Otter Tail will be responsible for providing and managing any appropriate work zone traffic control required for the construction and commissioning of Astoria Station. Otter Tail representatives will remain in consistent contact with the County, as appropriate, to ensure the County is aware of the construction status and road usage.
- Q. Should Otter Tail need to widen any existing County roadways during construction, Otter Tail will return roadways to original width after completion of Astoria Station, unless agreed upon otherwise with the County.

Otter Tail Power Company

Deuel County

Kirk Phinney
Print Name

Jamie Hintz
Print Name

[Signature]
Signature

Jamie Hintz
Signature

Manager, Supply Engineering
Title

Hwy. Supt.
Title

2-11-19
Date

2-11-19
Date