MAJOR PROFESSIONAL SERVICES AGREEMENT

This Major Professional Services Agreement ("**Agreement**") is made this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_, \_\_\_\_ ("**Effective Date**") by and between Otter Tail Power Company, a Minnesota corporation, as project manager for the Big Stone South to Hankinson to Bison 345 kV transmission line (**BSSHB**) and agent for: Northern States Power Company, a Minnesota corporation (“**NSPM**”) and Otter Tail Power Company (“**OTP**”) (OTP and NSPM are collectively referred to as the “Owners”), and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ ("**Consultant**")

Consultant is:

A corporation of the State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or

A limited liability company of the State of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or

An individual doing business as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or

A partnership consisting of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, or

Other \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

"**Party**" or "**Parties**" refers to Owners and/or Consultant, either individually or collectively, depending on the context in which the terms are used.

Except as otherwise provided in the Contract Documents, all notices required or permitted to be given hereunder shall be in writing, signed by a duly authorized representative of the Party giving such notice and will be deemed given when received by personal delivery, recognized express courier, or electronic mail (immediately followed by recognized express courier) to the other Party at the address designated below:

**To Owners**: Otter Tail Power Company

215 S. Cascade St.

Fergus Falls, MN 56537

Attn: Nic Olson, Project Manager

nolson@otpco.com 

***With a copy to***: Otter Tail Power Company

215 S. Cascade St.

Fergus Falls, MN 56537

Attn: Matt Holmquist, Sourcing Department

mholmquist@otpco.com

**To Consultant**: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**RECITALS**

A. Owners have caused to be prepared specifications and related documents for: Development Consulting for BSSHB (the “Project”), as more fully defined in the Contract Documents and has solicited proposals with respect to Services in connection with the Project, which Services are defined more fully in Section 4 of this Agreement; and

B. Consultant has submitted to Owners in the manner specified, a proposal for providing the Services and has from time to time supplemented such proposal; and

C. The Parties, following discussion, have agreed upon the definitive terms, conditions, prices, specifications and procedures setting forth their agreement for purchase by Owners of the Services to be furnished by Consultant under this Agreement.

AGREEMENT

Owners and Consultant, in consideration of the foregoing Recitals, all other covenants in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby agree to all that follows below.

1. **TERMS AND CONDITIONS**.

The terms and conditions that govern this Agreement shall be those expressly contained or referenced herein and in the Contract Documents defined in Section 2 including, without limitation, the General Conditions for this Agreement ("**General Conditions**"). Any other terms and conditions in any exhibits or documents made part of this Agreement do not apply unless noted herein and agreed to in writing by the Parties.

2. **CONTRACT DOCUMENTS**.

This Agreement consists of the following documents ("**Contract Documents**") and all exhibits and attachments thereto, each of which is incorporated by reference herein. The Contract Documents are listed in their governing order from highest to lowest. In the event a conflict or inconsistency exists between the Contract Documents, such conflict or inconsistency shall be resolved in favor of the higher-ranking document. Any Change Orders or an amendment to a Contract Document shall rank higher than the documents they revise or change to the extent they conflict or are inconsistent with the original documents, and in all other circumstances they shall share the same precedence classification as the original documents they revise or change.

This Major Professional Services Agreement

Exhibit A – General Conditions for Major Professional Services Agreement

Exhibit B – Scope of Work

Exhibit C – Insurance Requirements

Exhibit D – Lien Waiver Form(s)

Exhibit E – Project Milestones

Exhibit F – Rates and Unit Pricing

Exhibit G – Request for Payment

Exhibit H – Completion Forms

Exhibit I – Change Order Form

Exhibit J – Not Used

Exhibit K- Key Personnel

Exhibit L – QA/QC

Exhibit M – Not Used

Exhibit N – Progress Meetings and Reporting

3. **TERM**.

Unless earlier terminated pursuant to the terms and conditions of this Agreement, the term of this Agreement is from the Effective Date through Final Acceptance of all Services required to be provided under the Agreement , subject to Article 42 ("**Survival**") of the General Conditions.

4. **SCOPE OF WORK**.

Consultant agrees to furnish all equipment, materials, and services in accordance with Scope of Work indicated in Exhibit B of this Agreement.

5. **PRICE AND PAYMENTS**.

5.1 The total price for the Services shall be based upon actual units performed by Consultant in accordance with the terms of the Contract Documents at the unit prices identified in Exhibit F. The unit pricing set forth in Exhibit F is firm and fixed and may not be modified unless agreed to by a Change Order approved in writing through the formal Change Order process outlined under this Agreement. If Consultant proposes to modify the unit prices identified in Exhibit F, Consultant shall present its requests for a a change in the unit prices, within sixty (60) days prior to the date such pricing changes are to go into effect. Such changes in unit prices will not go into effect unless Consultant’s proposal is accepted by Owners in a written Change Order executed by Owners and Consultant. Nothing in this Section 5 requires Owners to accept any increase in the unit prices.

5.2 The payment schedule shall be in accordance with Exhibit G Payment Schedule and Request Forms. Payment terms are net forty-five (45) days from Owners’ receipt of invoice.

6. **INVOICES**.

Consulant shall electronically invoice Owners at or after the time of the completed services, to the following email address:

BSSHBinvoices@otpco.com

Attn: BSSHB Project Coordinator

7. **TAXES**.

Consultant shall process and pay all sales, use and other taxes that are lawfully assessed in connection with the Services. The actual amount of sales, use and other taxes paid by Consultant shall be shown as separate items on all invoices. For the avoidance of doubt,  all applicable taxes, federal, state, and local, are included within the pricing in Exhibit F.

8. **TITLE**. Title to all Services shall pass to Owners as their interest may appear.

9. **OWNERS’ STATUS AND ASSIGNMENT RIGHT**.

9.1 Each Owner has the right to assign all or any portion of its rights or obligations hereunder to another Owner or a third party; provided, however, such assignee assumes the obligations of the assignor from and after the date of assignment. The assignor will remain liable to Owners for all obligations incurred prior to the date of assignment, unless the assignee expressly assumes such obligations, in which case, the assignor will thereafter be released from such liabilities.  Any Owner that assigns any or all of its rights or obligations under this Agreement shall give written notice of such assignment to Consultant, together with written evidence, executed by the assignee, of the obligations assumed by the assignee.

9.2 The liability of each of the Owners under this Agreement shall be several, and not joint, in accordance with each Owner’s pro-rata percentage interest in the facility. The Owners are not participants in a partnership or joint venture and this Agreement shall not be interpreted to impose any liability attributable to such a relationship upon the Owners collectively.

**REMAINDER OF PAGE LEFT INTENTIONALLY BLANK**

**[SIGNATURE PAGE FOLLOWS]**

**IN WITNESS WHEREOF**, the duly authorized representative(s) of the Parties hereto has read all the exhibits and Contract Documents referenced herein and executed this Agreement.

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| ACCEPTED: | ACCEPTED: |
| **CONSULTANT**  **To Be Determined**  By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Authorized Signature  Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ | **OWNER**  **OTTER TAIL POWER COMPANY**  By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Authorized Signature  Print Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |