

NEBRASKA COMMUNITY ENERGY ALLIANCE
INTERLOCAL COOPERATION AGREEMENT
(Amended and Restated as of June 2014)

THIS AMENDED AGREEMENT is made and entered into by and among the following political subdivisions and such other parties that may join in this Agreement as herein provided:

1. City of Bellevue, Nebraska
2. Central City, Nebraska
3. City of Gothenburg, Nebraska
4. City of Holdrege, Nebraska
5. City of Lexington, Nebraska
6. City of Nebraska City, Nebraska
7. City of Seward, Nebraska
8. South Sioux City, Nebraska
9. City of Wayne, Nebraska

Political subdivisions located in the State of Nebraska and other entities who are members in good standing with this Agreement are collectively referred to herein and shall form the Nebraska Community Energy Alliance ("NCEA"). WITNESSETH:

WHEREAS, the above-named nine (9) political subdivisions have previously submitted a commitment to participate in the Nebraska Environmental Trust ("NET") program as a grant partner and have executed an INTERLOCAL COOPERATION AGREEMENT BETWEEN THE POLITICAL SUBDIVISION OF THE STATE OF NEBRASKA, FOR THE ADVANCEMENT OF COMPRESSED NATURAL GAS AND ELECTRIC VEHICLE INFRASTRUCTURE AND COMPRESSED NATURAL GAS AND ELECTRIC VEHICLE USE in connection with the respective political subdivision's "commitment to participate" submitted to the NET concerning the NET-sponsored project, Connecting Nebraska Communities Driving America's Fuel! ("NET-CNCDAF Project 14/149");

WHEREAS, the above-named nine (9) political subdivisions have found it necessary to amend the existing Interlocal Agreement to provide a mechanism for utilization in allowing additional political subdivisions and entities to join the NCEA together with a need to amend certain provisions of the previously executed Interlocal Agreement;

WHEREAS, the members of the NCEA desire to have a single document that describes the amended agreement of the parties and, therefore, the original Interlocal Agreement is superseded by this Amended Agreement;

1. City of Bellevue with term of 3 years;
2. Central City with term of 3 years;
3. City of Gothenburg with term of 3 years;
4. City of Holdredge with term of 2 years;
5. City of Lexington with term of 2 years;
6. City of Nebraska City with term of 2 years;
7. City of Seward with term of 1 year;
8. South Sioux City with term of 1 year; and
9. City of Wayne with term of 1 year.

The term of office of the initial Board of Directors shall commence on the date of the first organizational meeting of the NCEA and conclude on December 31st, 2015. All subsequent terms of office shall commence on January 1st and conclude on December 31st.

b. **Eligibility.** In addition to any other eligibility requirements, a Board candidate must be a NCEA member representative. No NCEA member may be represented by more than one (1) representative on the Board.

c. **Nominating Committee.** The Nominating Committee shall recommend candidates for the Board to the NCEA membership and in the case of vacancies, to the Board. The Nominating Committee shall consist of representatives of NCEA members and shall be appointed by the Board. The Board shall determine the size of the Nominating Committee, set terms for those serving on the Committee, fill vacancies on the Committee, and assign to the Committee such other and additional duties, powers, privileges, and authority as the Board may, in its bylaws or otherwise, determine appropriate or necessary.

d. **Membership Meeting for Appointment of Board Members.** An annual meeting of NCEA members shall be held for the purpose of approving Board candidates nominated by the Nominating Committee. Each NCEA member shall be entitled to one (1) vote which shall be cast by the Voting Delegate duly designated by the NCEA member. A vote of the majority of Voting Delegates present or participating in a membership meeting shall constitute approval by the NCEA membership. Membership meetings shall be conducted in accordance with the Nebraska Open Meetings Act, NEB. REV. STAT. §§ 84-1407 (Reissue 2008), *et. seq.* as the same may from time-to-time be amended. Robert's Rules of Order, latest edition, shall govern all membership meetings. The Board shall set the date of the membership meeting and may establish such rules for meetings in its bylaws or otherwise, as it determines appropriate or necessary.

other powers and duties as the Chairman or members shall from time-to-time delegate to the Vice-Chairman.

- iii. Secretary. The Secretary shall keep minutes of all meetings conducted by NCEA and shall be the keeper of the records of NCEA.
- iv. Treasurer. The Treasurer shall prepare and submit in writing a quarterly report of the state of finances of NCEA and pay NCEA money only upon authorization granted by the Board or Chairman. Payment of all accounts under authorization shall be made on check signed by the Treasurer.

In addition to the foregoing, the officers shall have such other and additional duties, powers, privileges, and authority as the Board may, in its bylaws or otherwise, determine appropriate or necessary.

4. Projects.

a. **NET-CNCDAF Project 14/149.** With respect to the NET-CNCDAF Project 14/149, the members participating in such Project agree to cooperate with each other and other public agencies on electric vehicle infrastructure and compressed natural gas and electric vehicle use project activities at the earliest practical time to avoid delays and duplication of effort later, head off potential conflicts, and ensure that planning and project development decisions reflect environmental values. Participating members agree to coordinate to reduce duplication between requirements under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and state and local planning and environmental review requirements, unless the agencies are specifically barred from doing so by applicable law. Members participating in the NET-CNCDAF Project 14/149 also agree to provide a minimum of a 50/50 match as may be required by grants or up to \$15,000 per vehicle and \$3,600 per electric vehicle infrastructure. Said members further agree to provide appropriate insurance coverage for all equipment and vehicles purchased or leased pursuant to the NET-CNCDAF Project 14/149. Participating members also agree to provide information identifying potential impacts and mitigation issues in a combined method.

b. **Other Projects and Granting Agencies.** As determined by the NCEA Board, NCEA may develop and administer other projects and seek funding for the same. "Other projects" shall be broadly construed but must be consistent with NCEA's purpose, this Agreement, and applicable laws and regulations. "Granting agency" as used in this Agreement, shall also be broadly construed as any entity, individual, or agency providing funding which is developed or administered by NCEA.

which are parties hereto and the citizens of such political subdivisions consistent with the purpose of NCEA;

- f. Contract for the delegation or performance of duties imposed upon it herein including, but not limited to, the budgeting, accounting, auditing, and reporting and such other professional services including, but not limited to, legal services, financial services, and accounting services. Such contract may be with an outside party or other appropriate vendors. Such contract may be entered into with and between nonparties to this Agreement or with NCEA members;
- g. Manage and review operations;
- h. Address any related questions and concerns of the general public;
- i. Make application for any permits or licenses required by regulating agencies;
- j. Hire and fire such personnel as are needed to carry out the objectives of NCEA, fix their compensation benefits, enact personnel rules and regulations, and enter into employment agreements;
- k. Adopt bylaws and standard operating procedures regarding the organization and operation of the NCEA and amend and repeal bylaws, rules, regulations, or standard operations to carry out and effectuate its powers and purposes;
- l. Make application for and receive grants related to the purposes for which NCEA was formed;
- m. Borrow funds as necessary;
- n. Contract with and compensate consultants for professional services including, but not limited to, lawyers, accountants, and others necessary or useful and convenient to the purposes of NCEA;
- o. Sue and be sued;
- p. Acquire, hold, use and dispense appropriately of funds received;
- q. Acquire, hold, use and dispose of real and personal property for the purposes of the NCEA;

b. **Assessment.** NCEA shall be funded by the revenues derived from granting agencies and/or other sources identified by the Board, provided, however, that in the event that funds derived from granting agencies and other sources identified by the Board are insufficient to service debt of NCEA, then in and in that event, the members of NCEA shall be assessed on proportional basis based on total funding received by the member during the preceding 24 month period as compared to total funding received by all members during the same preceding 24 month period, as determined as of the date of assessment. Each member shall have 60 days after receipt of notice from NCEA that an assessment is due to contribute its share of the funds required under the terms of the assessment.

c. **Budget.** In addition to any budget, reporting, or other financial requirements of any particular project or imposed by a granting agency, the NCEA Board shall, annually, beginning no more than 30 days after the formation of the NCEA and commencement of business, and continuing each year thereafter during the existence of the NCEA, establish and adopt a budget for the administration and management of the projects undertaken by the NCEA in fulfillment of its purpose. Upon completion of the budget, the Board shall determine the assessment to be submitted by each member and shall thereafter assess each member for said amount if any said amount has been determined as an assessment.

8. **Conflicts of Interest.** The members of NCEA agree to act in good faith in fulfilling the purpose of NCEA. It is expressly acknowledged and agreed that the NCEA is a public body and no profit or dividend will inure to the benefit of any individual. No Board member, public official, contractor or agent representing NCEA shall transact any business in his or her official NCEA capacity with any entity in which he or she, or any member of his or her immediate family, has a personal interest, without prior approval of the NCEA Board.

9. **Limitation of Liability.**

a. **Indemnification.** Each member shall indemnify and hold harmless NCEA against any and all losses, claims, liabilities, suits or judgments, costs and expenses suffered by NCEA as a result of the member's breach of any obligation undertaken by such member or representation made by such member. NCEA shall likewise indemnify and hold harmless each member against any and all losses, claims, liabilities, suits or judgments, costs and expenses suffered by such member as a result of NCEA's breach of any obligation undertaken by NCEA.

b. **Right to Inspect.** Members shall have the right to inspect the books or records maintained by NCEA upon demand made to NCEA and costs of such inspection shall be the responsibility of the inspecting member.

13. **Miscellaneous.**

- a. **Amendment and Modification.** This Agreement may be amended or modified only upon the unanimous approval of the Board.
- b. **Assignment.** No member may assign its rights under this Agreement.
- c. **Counterparts.** Original counterparts of this Agreement shall be executed and delivered by each member to the NCEA. Executed originals shall be placed on file at an office designated by the Board. The members agree that the separately executed copies of this Agreement constitute the NEBRASKA COMMUNITY ENERGY ALLIANCE INTERLOCAL COOPERATION AGREEMENT of the NCEA and shall be given full force and effect.
- d. **Effective Date.** This Agreement shall become effective upon the signing of all governing bodies of the respective original nine (9) named members hereto after each such member has adopted resolution approving and authorizing the execution of this Agreement. The NCEA established hereby shall come into existence upon the first meeting of the NCEA at a duly called public meeting. Each member shall provide to the NCEA a certified copy of each resolution approving and authorizing the execution of this Agreement and designating a Voting Delegate for the purpose of the annual membership meeting.
- e. **Governing Law.** This Agreement and all disputes related to or arising therefrom shall be governed, construed, and enforced in accordance with the laws of the State of Nebraska, without regard to conflict of law rules, and exclusive jurisdiction of any dispute shall rest with the courts of the State of Nebraska.
- f. **Integration.** This Agreement contains the entire agreement of the parties. No representations were made or relied upon by any party other than those expressly set forth herein. All prior and contemporaneous negotiations, discussions, memos and other writing are merged and incorporated herein, it being the intention of the parties that this be a final and full expression of the their agreement. No agent, employee or other representative of any party hereto is empowered to alter any of the terms herein unless such alteration is done in writing and signed by all parties hereto.

City of Nebraska City, Nebraska

By: _____ Date: _____

Print name and title: _____

City of Seward, Nebraska

By: _____ Date: _____

Print name and title: _____

South Sioux City, Nebraska

By: _____ Date: _____

Print name and title: _____

City of Wayne, Nebraska

By: _____ Date: _____

Print name and title: _____