

**METROPOLITAN UTILITIES DISTRICT**  
**DRAFT Committee Meetings & Public Hearing Agenda**

Updated 12.1.2023 at 1:00 pm

8:15 a.m.

December 6, 2023

1. Safety Briefing
2. Roll Call
3. Open Meetings Act Notice

**Construction & Operations – Friend, Sidzyik, Cavanaugh**

1. Capital Expenditures [Andy Melville – Interim SVP & Chief Operations Officer] – **Tab 5**
2. Acceptance of Contracts and Payment of Final Estimates  
[Adam Gartner – Interim Director, Plant Engineering] – **Tab 6**
3. Murphy Pipeline – Water Infrastructure Contract Partnership Recommendation for 2024  
[Adam Gartner – Interim Director, Plant Engineering] – **Tab 7**
4. Bids on Materials and Contracts [Jon Zellars – VP, Procurement & Enterprise Services] – **Tab 8**

**Services & Extensions – Friend, Begley, Howard**

1. Main Extensions [Masa Niiya – VP, Engineering] – **Tab 9**

**Personnel – Begley, Sidzyik, Friend**

1. Wage and/or Salary Increases and Ratifications  
[Bonnie Savine – VP, Human Resources] - **Tab 10**

**Judicial & Legislative – Cavanaugh, Cook, Howard**

1. Updated District Boundaries [Mark Mendenhall – SVP, General Counsel] – **Tab 11**
2. Purchase and Easement Agreements, Sarpy County Southwest Reservoir from G. Schram  
[Mark Mendenhall – SVP, General Counsel] – **Tab 12**

**Accounts, Expenditures, Finance & Rates – McGowan, Begley, Cook**

1. Proposal to Authorize Drinking Water State Revolving Fund Loan  
[Mark Myers – SVP and Chief Financial Officer] – **Tab 13**

**Public Hearing**

1. Proposed 2024 Gas and Water Budget [Mark Myers – SVP and Chief Financial Officer and Geneva Patterson – Director, Rates and Regulatory Affairs] - **Tab 14**
2. Proposed Water Rate [Geneva Patterson – Director, Rates and Regulatory Affairs] – **Tab 15**
3. Proposed Gas Rate [Geneva Patterson – Director, Rates and Regulatory Affairs] – **Tab 16**

**Public Comment**

***(Turn over for regular Board Meeting agenda)***

**METROPOLITAN UTILITIES DISTRICT**  
**DRAFT Regular Monthly Board Meeting Agenda**

**9:00 a.m.**

**December 6, 2023**

1. Roll Call
2. Open Meetings Act Notice
3. Pledge of Allegiance
4. Approval of Minutes – Committee Meetings & Regular Board Meeting for November 1, 2023
- CONSTRUCTION & OPERATIONS** 5. Capital Expenditures
6. Acceptance of Contracts and Payment of Final Estimates
7. Murphy Pipeline – Water Infrastructure Contract Partnership Recommendation for 2024
8. Bids on Materials and Contracts
- SERVICES & EXTENSIONS** 9. Main Extensions
- PERSONNEL** 10. Wage and/or Salary Increases and Ratifications
- JUDICIAL & LEGISLATIVE** 11. Updated District Boundaries
12. Purchase and Easement Agreements, Sarpy County Southwest Reservoir from G. Schram
- ACCOUNTS, EXPENDITURES, FINANCE & RATES** 13.
14. Proposal to Authorize Drinking Water State Revolving Fund Loan
15. 2024 Gas and Water Budget (RESOLUTION)
16. Proposed Water Rate (RESOLUTION)  
Proposed Gas Rate (RESOLUTION)
- COMMITTEE OF THE WHOLE** 17. Recognizing Jack Frost (RESOLUTION)
- BOARD** 18. Other Matters of District Business for Discussion
19. Public Comment
20. CLOSED SESSION - Litigation, Personnel and Real Estate

**Adjourn Regular Monthly Board Meeting**

***(Turn over for Committee Meetings agenda)***

**METROPOLITAN UTILITIES DISTRICT**  
**Minutes of the Committee Meeting**  
**November 1, 2023**

Chairperson Tanya Cook called to order the Committee meetings of the Metropolitan Utilities District Board of Directors at 8:15 a.m. at its headquarters building located at 7350 World Communications Drive.

Advance notice of the meeting was published in the print version of *The Omaha World-Herald* on Sunday, October 22, 2023. Notice was also provided on the MUD website at [www.mudomaha.com](http://www.mudomaha.com) and other social media platforms. Agendas and all pertinent Board materials to be presented at the meeting were emailed to Directors on October 27, 2023 and posted on the MUD website.

Chairperson Cook announced that the meeting was being livestreamed and a recording of the meeting would be uploaded to the MUD website after the meeting's conclusion.

**Safety Briefing**

Vice-President of Safety, Security and Business Continuity Shane Hunter provided a safety briefing for all individuals attending the meeting in-person regarding protocol at the headquarters building in the event of an emergency.

**Roll Call**

On a roll call vote, the following Directors acknowledged their attendance: Tanya Cook, Bob Sidzyik, Mike McGowan, Gwen Howard, Tim Cavanaugh, Jim Begley. Director Friend was absent.

**Open Meetings Act Notice**

Chairperson Cook announced that a copy of the Open Meetings Act was located on the wall in the back of the Board Room.

**Construction and Operations – Friend, Sidzyik, Cavanaugh**

Interim Senior Vice-President and Chief Operations Officer Andy Melville presented the proposed capital expenditures as outlined in his letter to the Committee dated October 25, 2023.

Mr. Melville reviewed the Acceptance of Contracts and Payment of Final Estimates as outlined in Interim Director of Plant Engineering, Adam Gartner's letter to the Committee dated October 19, 2023.

Mr. Melville reviewed the Change Order No. 1 Cast Iron Water Main Replacement Leavenworth Street to Dodge Street and 69<sup>th</sup> Street to 71<sup>st</sup> Street as outlined in Interim

Director of Plant Engineering, Adam Gartner's letter to the Committee dated October 5, 2023.

Mr. Melville then presented the bids on materials and contracts as outlined in the letter to the Committee from Director of Procurement Sherri Lightfoot dated October 20, 2023.

Mr. Melville then presented the proposed main extensions as outlined in Vice-President of Engineering Masa Niiya's letter to the Committee dated October 26, 2023.

**Personnel - Begley, Sidzyik, Friend**

Senior Vice-President & General Counsel Mark Mendenhall reviewed the wage and/or salary increases and ratifications as outlined in Vice-President of Human Resources Bonnie Savine's letter to the Committee dated October 19, 2023.

**Judicial & Legislative - Cavanaugh, Cook, Howard**

Mr. Mendenhall then presented the Interlocal Agreement for Potter Street and State Highway 133 Improvements as outlined in his letter to the Committee dated September 29, 2023.

**Public Comment**

President Doyle requested to move Public Comments before the next agenda item. President Doyle acknowledged the presence of Mr. Walter Conrad who has brought concerns and suggestions forth to discuss. Prior to the meeting, Mr. Conrad shared some of these items with President Doyle and Director McGowan and it was determined having an internal meeting with Mr. Conrad would allow for the best course of action on his concerns and suggestions. Mr. Conrad thanked MUD for their continued response and efforts to address his concerns.

**Accounts, Expenditures, Finance & Rates - McGowan, Begley, Cook**

Senior Vice-President and Chief Financial Officer Mark Myers presented the Budget Workshop as a preliminary review of the 2024 budget with a focus on personnel and capital projects. He noted many budget decisions remain a 'work in progress' and final decisions will be rendered over the course of the next month and will be presented to the Board for approval at the December 6<sup>th</sup> Board Meeting.

Mr. Myers stated that the proposed budget includes 923 full-time employees, a net increase of 18 compared to the 2023 budget. He indicated some positions were added this year due to business needs related to utility locating, engineering and water operations. He also highlighted several key initiatives which required additional staff in utility locating, meter services, construction, engineering and information technology. Mr. Myers also highlighted that actual staffing has been running very close to the adjusted budget level each month this year due to proactive steps to backfill positions ahead of retirements and hiring employees in advance of attrition where extended training time prevents employees from being fully qualified upon hire.

Mr. Myers pointed out the travel budget was scaled back to be more in line with pre-COVID travel trends.

Mr. Myers moved on to discuss the Water Department Capital Expenditures budget, reflecting the 2023 budget, 2023 estimate and 2024 budget. He highlighted some areas where actual vs. budgeted for 2023 were lower primarily due to delayed spending on large development projects due to various causes including design changes, delayed pipe delivery, permitting delays and timing of acquisition of easements. Many of these issues have been resolved and these projects are expected to be back on track in 2024.

Mr. Myers highlighted that spending at Florence is expected to be below budget due to Site Header Piping project and Basin 6 rehabilitation which were caused by the equipment failure which occurred in July 2023.

Platte West had delayed projects in 2023 that will be incorporated into a comprehensive Capital Improvement plan that is currently under development.

Platte South also had two Capital Improvement projects that will be carried to 2024, the new administrative building and new electrical building.

Mr. Myers continued, discussing the Five-Year Projection of Water Plant Additions and Replacements which includes construction of water mains, infrastructure replacements, electrical replacement at Florence, Capital Improvement Plans at Platte South and Platte West, construction machine replacement, and two new reservoirs and pump stations, one in the northwest part of the District and one in the southwest part of the district. Many of these initiatives will be bond-financed.

Another cost with significant impact is the water main break frequency which continues to carry an enormous cost both in terms of financial resources and disruption (averaging 555 per year over the last 5-year period). There is not only a financial cost but a social cost to the disruption of homes and businesses. The Districts' commitment to its Infrastructure Replacement (IR) program calls for annual replacement of 17 miles of aging, high consequence water mains in 2024. At the same time, the District will continue to expand efforts to deploy cost-reduction strategies including alternate installation methods such as pipe-bursting, using different material types such as PVC and HDPE, and using predictive technologies such as condition assessment and leak detection to proactively identify issues before they become main break events and anticipate an increase in number of miles of main breaks assessed over the next few years. Rate increases will be needed for the foreseeable future in order to fully fund the IR program on a consistent basis.

Mr. Myers then presented the Gas Department Capital Expenditures budget, reflecting the 2023 budget, 2023 estimate and 2024 budget. He discussed the lower than budgeted spend for 2023 due to lower than planned spending on construction of gas mains, information technology projects and motor vehicles. The LNG and Propane Plant

project is anticipated to be higher than expected due to timing and increase of cost estimates. This is offset by lower building, lands and equipment costs due to the timing of the construction of the new Construction Center. Information Technology is below budget this year due to delays in the implementation of the digital platform modernization project which will be carried over into 2024. Expenditures on Motor Vehicles is expected to be below budget due to delays in purchases resulting from supply chain issues and availability of vehicles to purchase.

Mr. Myers continued, discussing the Five-Year Projection of Gas Plant Additions and Replacements which includes nearing the completion of the cast iron main replacement program, which will then focus on moving meters from inside to outside, capital improvements at the LNG plant, largely the liquefaction and vaporization projects, building of the new Construction Center, renovations at CC1, and information technology due to the digital platform modernization project. Many of these initiatives will be bond-financed through currently issued bonds.

President Doyle informed the Board that each member would be invited to a small group meeting to discuss any questions or concerns they may have and gather input prior to the finalization of the proposed budget.

Director McGowan requested a list of outstanding bonds with the type, maturity date, interest rate, and how much we charge each year on each bond.

At 8:54 a.m., Chairperson Cook announced the Committee Meetings had concluded and the Board would reconvene in ten minutes for the regular monthly Board Meeting.



Mark Doyle  
President & Secretary to the Board

MD/sec

**METROPOLITAN UTILITIES DISTRICT**  
**Minutes of the Regular Monthly Board Meeting**  
**November 1, 2023**

Chairperson Cook called to order the regular Board Meeting of the Metropolitan Utilities District Board of Directors at 9:04 a.m. at its headquarters building located at 7350 World Communications Drive.

Advance notice of the meeting was published in the print version of *The Omaha World-Herald* on Sunday, October 22, 2023. Notice was also provided on the MUD website at [www.mudomaha.com](http://www.mudomaha.com) and other social media platforms. Agendas and all pertinent Board materials to be presented at the meeting were emailed to Directors on October 27, 2023 and posted on the MUD website.

Chairperson Cook announced that the meeting was being livestreamed and a recording of the meeting would be uploaded to the MUD website after the meeting's conclusion.

**AGENDA NO. 1**

**ROLL CALL**

On a roll call vote, the following Directors acknowledged their attendance: Tanya Cook, Bob Sidzyik, Mike McGowan, Gwen Howard, Tim Cavanaugh, Jim Begley. Director Friend was absent.

**AGENDA NO. 2**

**OPEN MEETINGS ACT NOTICE**

Chairperson Cook announced that a copy of the Open Meetings Act was located on the wall in the back of the Board Room.

**AGENDA NO. 3**

**PLEDGE OF ALLEGIANCE**

Chairperson Cook invited all who wished to participate to recite the Pledge of Allegiance.

**AGENDA NO. 4**

**APPROVAL OF MINUTES FOR THE COMMITTEE MEETINGS AND REGULAR MONTHLY BOARD MEETING FOR OCTOBER 4, 2023**

Director Begley moved to approve the minutes for the Committee Meetings and regular monthly Board Meeting for October 4, 2023, which was seconded by Director Howard and carried on a roll call vote.

Voting Yes: Sidzyik, McGowan, Howard, Cavanaugh, Begley, Cook

Voting No: None

Director Cavanaugh moved for approval of the grouped Agenda Items #5, #6, #7, #8, and #9 in one motion as follows:

**AGENDA NO. 5**

**CAPITAL EXPENDITURES** (as presented in the Committee Meetings by Interim Senior Vice-President and Chief Operations Officer Andy Melville as outlined in his letter to the Committee dated October 25, 2023)

**AGENDA NO. 6**

**ACCEPTANCE OF CONTRACTS AND PAYMENT OF FINAL ESTIMATES** (as presented in the Committee Meetings by Interim Senior Vice-President and Chief Operations Officer Andy Melville and as outlined in Interim Director, Plant Engineering Adam Gartner's letter to the Committee dated October 19, 2023)

**AGENDA NO. 7**

**CHANGE ORDER NO. 1 – LEAVENWORTH STREET TO DODGE STREET AND 69<sup>TH</sup> STREET TO 71<sup>ST</sup> ST** (as presented in the Committee Meetings by Interim Senior Vice-President and Chief Operations Officer Andy Melville and as outlined in Interim Director, Plant Engineering Adam Gartner's letter to the Committee dated October 5, 2023)

**AGENDA NO. 8**

**BIDS ON MATERIALS AND CONTRACTS** (as presented to the Committee Meetings by Interim Senior Vice-President and Chief Operations Officer Andy Melville and as outlined in the letter dated October 20, 2023, from Director of Procurement Sherri Lightfoot)

**AGENDA NO. 9**

**MAIN EXTENSIONS** (as presented to the Committee Meetings by Interim Senior Vice-President and Chief Operations Officer Andy Melville and as outlined in Vice-President of Engineering Masa Niiya dated October 26, 2023)

The blanket motion to approve the five grouped agenda items was seconded by Director Begley and carried on a roll call vote.

Voting Yes: Sidzyik, McGowan, Howard, Cavanaugh, Begley, Cook

Voting No: None

**AGENDA NO. 10**

**WAGE AND/OR SALARY INCREASES AND RATIFICATIONS**

Director Begley moved to approve the Wage and/or Salary Increases and Ratifications as presented in the Committee Meetings by Senior Vice-President and General Counsel Mark Mendenhall and as outlined in Vice-President of Human Resources Bonnie Savine's letter dated October 19, 2023. The motion was seconded by Director Howard and carried on a roll call vote.



Voting Yes: Sidzyik, McGowan, Howard, Cavanaugh, Begley, Cook  
Voting No: None

**AGENDA NO. 11**  
**INTERLOCAL AGREEMENT – POTTER STREET AND STATE HIGHWAY 133**  
**IMPROVEMENTS TRAFFIC SIGNAL**

Director Cavanaugh moved to approve the Interlocal Agreement for Potter Street and State Highway 133 Traffic Signal as presented by Senior Vice-President and General Counsel Mark Mendenhall in the Committee Meetings and as outlined in his letter to the Committee dated October 26, 2023. The motion was seconded by Director Howard and carried on a roll call vote.

Voting Yes: Sidzyik, McGowan, Howard, Cavanaugh, Begley, Cook  
Voting No: None

**AGENDA NO. 12**  
**OTHER MATTERS OF DISTRICT BUSINESS FOR DISCUSSION**

Chairperson Cook asked whether any Board Members had any comments they wished to share. There were none.

**AGENDA NO. 13**  
**PUBLIC COMMENT**

Chairperson Cook asked whether any members of the public were present who wished to address the Board. There were none.

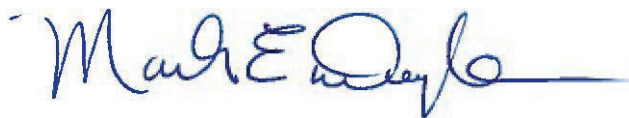
**AGENDA NO. 14**  
**CLOSED SESSION – LITIGATION, PERSONNEL AND REAL ESTATE**

A Closed Session was not necessary.

Director Begley moved to adjourn the regular Board Meeting which was seconded by Director Howard and carried on a roll call vote.

Voting Yes: Sidzyik, McGowan, Howard, Cavanaugh, Begley, Cook  
Voting No: None

The regular Board Meeting was adjourned at 9:11 a.m.



Mark Doyle  
President & Secretary to the Board

MD/sec

**METROPOLITAN UTILITIES DISTRICT**

*Inter-Department Communication*

November 29, 2023

**Subject: CAPITAL EXPENDITURES**

**To:** Committee on Construction and Operations  
cc: all Board Members, Doyle, Mendenhall, Myers, Lobsiger, Ausdemore  
and all Vice Presidents

**From:** Andy Melville, Interim SVP & Chief Operations Officer

The following items will be on the December 6<sup>th</sup>, 2023, Committee Agenda for consideration and the Board Agenda for approval.

**BUILDINGS, PLANTS & EQUIPMENT**

**1. JOB #:** 100031000013

**TOTAL COST:** \$231,000

**LOCATION:** Florence Water Production Facility

**PURPOSE:** Rebuild Traveling Intake Screen

**DESCRIPTION:** This request is to rebuild a traveling intake screen at the Florence Water Production Facility. With the recent flooding events, ice jam, and very low river conditions, the screens have experienced extensive wear. In addition, the traveling screen takes on numerous zebra mussels which can make their way through the plant. To prevent damage to the screens or other areas of the plant, the refurbish cost includes an anti-foulant coating to prohibit the zebra mussels from attaching to the screens. This coating has proven effective on prior screen rebuilds. This work is anticipated to occur in early 2024.

**2. JOB #:** 100089000958

**TOTAL COST:** \$165,000

**LOCATION:** Platte West Wellfields

**PURPOSE:** Security Upgrades

**DESCRIPTION:** This request is to upgrade the existing security systems at the District's Douglas and Saunders County wellfields. This includes upgrades at security gates allowing for enhanced security control and monitoring. In addition, this project introduces improved surveillance in the wellfields. The proposed enhancements will ensure a secure, controlled environment, adaptable to evolving security needs of the District.

**SYSTEM IMPROVEMENTS**

**1. JOB #:** R2266 (100054001141 - \$410,000) & (100068001123 - \$17,400)

**PROJECT COST:** \$427,400

**DISTRICT COST:** \$0

**LOCATION:** Farnam Street from S 37th Street to Turner Boulevard

**DISTRICT SUBDIVISION:** Howard

**PURPOSE:** Relocate gas mains for the Omaha Streetcar Project

**DESCRIPTION:** This work is required to eliminate conflicts on the City of Omaha’s Streetcar Project OPW 54338. This phase will be the second of eight (8) gas relocation projects along the currently proposed streetcar route. This work is anticipated to start in January 2024 and will be constructed by M.U.D. crews. The District and the City of Omaha agreed to limit the gas and water infrastructure costs related to the streetcar to \$7.6 million. Engineering has identified and estimated \$7.6 million of gas and water infrastructure replacement which will be accounted for under the Infrastructure Replacement Programs. This segment of gas work related to the streetcar is not part of the Infrastructure Replacement Program therefore is reimbursable.

**2. JOB #:** GP2840 (100052001856 - \$70,900) & (100066002379 - \$17,800)

**TOTAL COST:** \$88,700

**LOCATION:** 90<sup>th</sup> Street and “F” Street

**DISTRICT SUBDIVISION:** McGowan

**PURPOSE:** Install 12” steel Broen valve with two purges

**DESCRIPTION:** A 12” gas valve at 90th Street & “F” Street (#30002999) has a Grade 2 gas leak. To repair the leak the valve must be removed and replaced. This is a Nordstrom geared plug valve that was installed in 1962. This is one of Gas Distribution’s prioritized gas valve replacements budgeted for 2024 and the project is anticipated to start in the 1<sup>st</sup> quarter of 2024.

DocuSigned by:



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Andy Melville

Interim SVP, Chief Operations Officer

Approved:

DocuSigned by:



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Mark E. Doyle

President

**METROPOLITAN UTILITIES DISTRICT***Inter-Department Communication*

November 20, 2023

**Subject:** ACCEPTANCE OF CONTRACTS AND PAYMENT OF FINAL ESTIMATES**To:** Committee on Construction and Operations  
cc: all Board Members, Doyle, Mendenhall, Myers, Ausdemore, Melville, Lobsiger, and all Vice Presidents**From:** Adam L. Gartner, Interim Director, Plant Engineering

The following items will be on the December 6, 2023, Committee Meeting for consideration and the Board Meeting Agenda for approval. Work has been satisfactorily completed on the following contracts and final payment is recommended:

Contract	Contract Approval Date	Amounts	
		Contract Bid	Actual
a. Anderson Enterprises, Inc., WP1968, 100093001281, 100083001167, 100083001168, 100083001174, Replace Roofs At Rainwood Pump Station, Skyline Pump Station, and Walnut Hill Engine Building	3/15/2023	\$635,814.91	\$650,336.31

**Comments:** There was an increase in this project of \$14,521.40 (2.2%), due to two previously approved change orders. All work required by the contract has been completed by the Contractor and is acceptable and in compliance with the Contract and Specifications.

Contract	Contract Approval Date	Amounts	
		Contract Bid	Actual
b. Hawkins Construction, WP1596, 100083001069, Construction of the New West Dodge Pump Station; 15340 Wycliffe Drive	7/7/2021	\$3,911,744.00	\$4,126,437.25

**Comments:** There was an increase in this project of \$214,693.25 (5.5%), accounted for in six previously approved change orders. All work required by the contract has been completed by the Contractor and is acceptable and in compliance with the Contract and Specifications.

Contract	Contract Approval Date	Amounts	
		*Unit Price Bid	Actual
c. Cedar Construction Company, Inc., WP1938, 100055001411, Install Water Mains in Iron Bluffs Lots 1-91, SW of George B. Lake Pkwy. & F St.	10/5/2022	\$895,793.00	\$876,234.10

**Comments:** There was a decrease in this project of \$19,518.90 (-2.2%), due primarily to a reduced amount of unit quantities required to complete the work. All work required by the contract has been completed by the Contractor and is acceptable and in compliance with the Contract and Specifications.

Contract	Contract Approval Date	Amounts	
		*Unit Price Bid	Actual
d. Cedar Construction Company, Inc., WP1916, 100055001404, Install Water Mains in Majestic 178, SE of 177th St. & State St.	7/6/2022	\$550,756.00	\$496,491.92

**Comments:** There was a decrease in this project of \$ 54,264.08 (-9.9%), due to a previously approved change order for a change from ductile iron to PVC and reduced amount of unit quantities required to complete the work. All work required by the contract has been completed by the Contractor and is acceptable and in compliance with the Contract and Specifications.

Approved:

DocuSigned by:

*Adam Gartner*

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Adam L. Gartner

Interim Director, Plant Engineering

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*Masa Niya*

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Masa Niya

Vice President  
Engineering

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*Andy Melville*

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Andy Melville

Interim Senior Vice President  
Chief Operations Officer

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*Mark Doyle*

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Mark E. Doyle

President

## METROPOLITAN UTILITIES DISTRICT

*Inter-Department Communication*

November 15, 2023

**Subject:** MURPHY PIPELINE - WATER INFRASTRUCTURE CONTRACT PARTNERSHIP RECOMMENDATION FOR 2024

**To:** Committee on Construction & Operations  
Cc: All Board Members, Doyle, Melville, Myers, Mendenhall, Ausdemore, Lobsiger, and All Vice Presidents

**From:** Adam Gartner, Interim Director, Plant Engineering

Management is recommending the District enter into a water infrastructure replacement (IR) partnership with Murphy Pipeline (“Murphy”) for one year in 2024.

The District first began a partnership with Murphy in 2022 when they completed a pilot pipe bursting project. The partnership was extended one additional year in 2023 where Murphy completed three pipe bursting pre-chlorinated HDPE pipe replacement projects for a total of 3.5 miles of cast iron water main abandoned. Pending final completion of 2023 projects, the estimated average cost was approximately \$1.3 million per mile. Contracted pipe bursting continues to be an economical solution for certain water IR project areas.

Murphy is an out of state contractor who has continued to learn District expectations and requirements to complete work in the Omaha metropolitan area. The District and Murphy have discussed lessons learned from 2023 projects and remain committed to improving efficiencies and service to District customers. We will reevaluate near the end of 2024 to determine continued viability of this method, material, and partnership.

Consistent with other contracted water IR projects, the District will have the flexibility of designing projects with various methods and materials, based on cost, product availability, and contractor experience. Prices will be negotiated with Murphy as 2024 project water main designs progress. If at any time the District and Murphy cannot agree on negotiated prices, the partnership may be terminated.

This Murphy partnership is part of the District’s program of replacing critical water infrastructure to make the water distribution system more robust and reduce water main breaks. With the approval of this request, management is asking that the president be authorized to enter into contracts with Murphy Pipeline in 2024. Each contract would be contingent upon negotiating acceptable pricing.

The corresponding C&As for this work will be submitted as part of the annual C&A requests for all gas and water infrastructure work for each calendar year at the January 2024 Board of Directors meeting. Your approval is requested.

DocuSigned by:



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Adam Gartner

Interim Director, Plant Engineering

**Approved:**

DocuSigned by:

*Masa Niya*

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**Masa Niya**  
Vice President,  
Engineering

DocuSigned by:

*Andy Melville*

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**Andy Melville**  
Interim Sr. Vice President,  
Chief Operations Officer

DocuSigned by:

*Mark Mendenhall*

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**Mark Mendenhall**  
Sr. Vice President,  
General Counsel

DocuSigned by:

*Mark Doyle*

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**Mark Doyle**  
President

METROPOLITAN UTILITIES DISTRICT  
*Inter-Department Communication*

November 22, 2023

**Subject:** BIDS ON MATERIALS AND CONTRACTS DURING THE MONTH OF NOVEMBER

**To:** Construction & Operations Committee  
cc: All Board Members, Doyle, Ausdemore, Lobsiger, Melville, Mendenhall, Myers  
and all Vice Presidents

**From:** Sherri A Lightfoot, Director, Procurement

The following items will be on the December 6, 2023 Committee Agenda for consideration and the December 6, 2023 Board Agenda for approval. The recommended bid is bolded and listed first. Nonlocal bidders have been indicated in italics.

**WATER/GAS MAIN CONTRACTS**

<u>Item</u>	<u>Bids Sent / Rec'd</u>	<u>Bidders</u>	<u>Bid Amount</u>
Install Water Mains in Roanoke Business Park Replat 4 Lots 1-7, SW of North 120 <sup>th</sup> Street and Fort Street 100055001448 WP2028 Engineering Estimate: \$176,138.00 (A C&A in the amount of \$235,251.00 will be presented to the Board on December 6, 2023 for approval.)	18/4	<b>Kersten Constr.</b> <i>Pat Thomas Constr.</i> Cedar Constr. Vincentini Plumbing	<b>\$185,281.00</b> 193,547.00 203,550.00 219,111.83

**RATIFICATION**

<u>Item</u>	<u>Bids Sent / Rec'd</u>	<u>Bidders</u>	<u>Bid Amount</u>
Skyline Pump Station Pipe Painting 100085000668 WP2050 Engineering Estimate: \$40,000.00 (C&A for 100085000668 approved November 21,2023 in the amount of \$33,000.00.)	3/2	<b>Mongan Painting</b> W.S. Bunch	<b>\$25,013.00</b> 41,295.00



Miscellaneous Pump Stations Pipe Painting 100085000667 WP2050 Engineering Estimate: \$40,000.00 (C&A for 100085000667 approved November 21,2023 in the amount of \$45,500.00.)	3/3	<b>Mongan Painting</b> W.S. Bunch McGill Restoration	<b>\$36,503.00</b> 67,006.00 109,200.00
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### INFORMATION TECHNOLOGY

<u>Item</u>	<u>Bids Sent / Rec'd</u>	<u>Bidders</u>	<u>Bid Amount</u>
SAP S/4HANA on RISE Contract Next-Generation Enterprise Resource Planning (ERP) Platform Five (5) Year Contract	1/1	<b>SAP</b>	<b>\$6,705,676.02</b>
SAP S/4HANA Compatible On-Premise Software	1/1	<b>SAP</b>	<b>\$297,386.19</b>

### OTHER

<u>Item</u>	<u>Bids Sent / Rec'd</u>	<u>Bidders</u>	<u>Bid Amount</u>
Blair High Road MUD CC2 Paving, Grading, Storm Sewer and Erosion Control 100084001317 Engineering Estimate: \$2,573,864.25 *M.U.D. Portion: \$945,264.84 (C&A for 100084001317 approved November 2, 2022 in the amount of \$47,137,990.00.) (Supplemental C&A approved June 7, 2023 in the amount of \$6,909,085.00.)	13/3	<b>Graham Constr.</b> <i>Valley Corp.</i> <i>K2 Constr.</i>	<b>\$1,678,971.90*</b> 1,945,746.51 2,179,798.40

Platte West Well Field Security Access Control and Camera Systems 100089000958	3/3	<b>Paladin</b> ECO Prime Secured	<b>\$149,195.22</b> 154,023.00 179,349.28
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(A C&A in the amount of \$165,000.00 will be presented to the Board on December 6, 2023 for approval.)

One (1) Traveling Water Screen Rebuild and Trash Rack Cleaning at Florence WTP Extension #1 100031000013	1/1	<b>Atlas SSI</b>	<b>\$136,880.82</b>
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(A C&A in the amount of \$231,000.00 will be presented to the Board on December 6, 2023 for approval.)

### ANNUALS

<u>Item</u>	<u>Bids Sent / Rec'd</u>	<u>Bidders</u>	<u>Bid Amount</u>
Furnish Complete Building Cleaning Services for M.U.D. Facilities and Furnish Complete Restroom Cleaning Services for Various Water Pumping Facilities (January 1, 2024 to December 31, 2026) *2 <sup>nd</sup> Low Bid Recommended	8/5	<b>RTG Building Svcs.</b> <i>SW Janitorial Svcs.</i> Heartland Office Clnrs. FBG Service Corp. City Wide Facilities Sols.	<b>\$1,606,698.09</b> <i>1,808,621.00</i> 2,061,076.37 2,182,441.95 1,450,616.44*
Gasoline – Operating & Construction Centers (January 1, 2024 to December 31, 2024)	8/4	<b>Sapp Bros.</b> Harms Oil Company Nebraska-Iowa Supply <i>Petroleum Traders</i>	<b>\$495,828.00</b> 497,178.00 497,412.00 <i>503,449.20</i>
Gasoline – Florence, Platte South, Platte West, and LNG (January 1, 2024 to December 31, 2024)	8/3	<b>Sapp Bros.</b> Harms Oil Company Nebraska-Iowa Supply	<b>\$48,868.20</b> 50,495.00 50,766.00

Diesel – Construction Center  
(January 1, 2024 to December 31, 2024)

9/3

**Sapp Bros.**  
Harms Oil Company  
*Petroleum Traders*

**\$555,536.50**  
560,093.00  
569,054.15

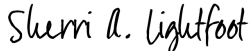
Diesel – Florence, Platte South,  
Platte West, and LNG  
(January 1, 2024 to December 31, 2024)

9/2

**Sapp Bros.**  
Harms Oil Company

**\$76,598.60**  
77,923.60

DocuSigned by:



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Sherri A. Lightfoot  
Director, Procurement  
(402) 504-7253

Approved:

DocuSigned by:



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Jon Zellars  
Vice President, Procurement and Enterprise Services

DocuSigned by:



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Steven E. Ausdemore  
Senior Vice President, Safety, Security and Field Operations

DocuSigned by:



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Mark E. Doyle  
President

**METROPOLITAN UTILITIES DISTRICT**

*Inter-Department Communication*

November 28, 2023

**Subject:** MAIN EXTENSIONS

**To:** Services and Extensions Committee  
cc: All Board Members, Doyle, Mendenhall, Myers, Ausdemore, Melville, Lobsiger,  
and all Vice Presidents

**From:** Masa Niiya, Vice President, Engineering

The following main extensions will be on the December 6, 2023, Committee Agenda for consideration and the Board Agenda for approval:

**1. JOB #: GP2777** (100060001470 - \$242,871)

**PROJECT COST:** \$242,871

**DISTRICT COST:** \$46,495

**LOCATION:** N. 216<sup>th</sup> Street and Kansas Avenue

**DISTRICT SUBDIVISION:** Begley

**PURPOSE:** Install gas mains for Calarosa Subdivision

**DESCRIPTION:** Work to be done will provide gas service to 140 newly platted single-residential lots, 1 school lot and 1 park lot in Calarosa subdivision.

**2. JOB #: WP2075** (100055001461 - \$124,756) & (100065001731 - \$0)

**PROJECT COST:** \$124,756

**DISTRICT COST:** \$0

**LOCATION:** Herman Drive between Fort Crook Road and Harvell Drive

**DISTRICT SUBDIVISION:** Sidzyik

**PURPOSE:** Install water mains for Harvell Center Replat 2

**DESCRIPTION:** Work to be done will front one newly platted commercial lot in Harvell Center Replat 2 with water mains. Due to the replat of Harvell Center Replat 2 and the vacation of Harvell Circle north of Herman Drive, the District will transfer the existing 8" water main to a water service for Bellevue University. No field modifications are required for this main to service conversion being done under job number 100065001731.

**3. JOB #: WP2028** (100055001448 - \$235,251)

**PROJECT COST:** \$235,251

**DISTRICT COST:** \$0

**LOCATION:** Southwest of North 120<sup>th</sup> Street and Fort Street

**DISTRICT SUBDIVISION:** Friend

**PURPOSE:** Install water mains for Roanoke Business Park Replat 4

**DESCRIPTION:** Work to be done will provide domestic water service and fire protection to 6 newly platted commercial lots in Roanoke Business Park Replat 4. MUD previously provided water service to the existing customer now on Lot 7. The water service to Lot 7 will be partially relocated by others to accommodate the new development.

DocuSigned by:  
*Masa Niya*  
98B161DE431645F...  
Masa Niya  
Vice President, Engineering

Approved:

DocuSigned by:  
*Andy Melville*  
FEF7CDECEE034EB...  
Andy Melville  
Interim Sr. Vice President, Chief Operations Officer

DocuSigned by:  
*Mark Doyle*  
C1E4FA06F330426...  
Mark E. Doyle  
President

**METROPOLITAN UTILITIES DISTRICT**  
*Inter-Department Communication*

November 21, 2023

**Subject: Wage and/or Salary Increases and Ratifications, December 2023 Board Meeting**

**To:** Personnel Committee members Begley, Friend, and Sidzyik  
**cc:** Board Members Cavanaugh, Cook, Howard, and McGowan  
President Doyle, and Senior Vice Presidents Ausdemore, Lobsiger, Mendenhall, and Myers;  
Interim Senior Vice President Melville

**From:** Bonnie Savine, Vice President, Human Resources

The Human Resources Department is recommending the Board of Directors approve the wage or salary increases outlined below. All positions involve District employees earning more than \$10,000 per year and therefore require your approval.

**1. Operating and Clerical (OAC) Wage Increases Due To Promotion**

The Human Resources Department is recommending the Board of Directors approve wage increases for the following Employees within the OAC classification. These wage increases are based on a job selection process, are in compliance with the Collective Bargaining Agreement, and are made following the posting and application process for a job opening in the District. The effective date for these increases will be the beginning of the next OAC pay period following Board approval.

**Employee:** Michael Zoucha  
**Current position (department):** Pipe Layer (Construction)  
**New position (department):** Meter Mechanic (Meter Services)  
**Current rate; step/grade:** \$32.92; Step 2  
**Proposed rate; step/grade:** \$35.87; Step 3  
**Percent of increase:** 8.96%  
**District hire date:** June 7, 2021

**Employee:** Hope Scott  
**Current position (department):** Customer Service Clerk II (Customer Service)  
**New position (department):** Communications Clerk II (Field Services)  
**Current rate; step/grade:** \$32.76; Step 4  
**Proposed rate; step/grade:** \$35.06; Step 2  
**Percent of increase:** 7.02%  
**District hire date:** September 9, 2013

## Wage and/or Salary Increases and Ratifications

December 2023

Page 2

**2. Operating and Clerical (OAC) Wage Increases Due To Job Transfer**

The Human Resources Department is recommending the Board of Directors approve wage increases for the following Employees within the OAC classification. A transferring employee who is at less than Standard Wage will be moved to an equal rate in the new job classification or, if there is not an identical wage rate, to the nearest higher wage rate in the new job classification. These wage increases are based on a formal selection process, are in compliance with the Collective Bargaining Agreement, and are made following the posting and application process for a job opening in the District. The effective date for these increases will be the beginning of the next OAC pay period following Board approval.

**There are no recommendations for approval this month**

**3. Operating and Clerical (OAC) Wage Increases Due To Job Progression**

The Human Resources Department is recommending the Board of Directors approve the following wage increases for the OAC employees who have successfully completed required training and who have been recommended by their supervisor for promotion as they progress within their job family. All increases are based on the bargaining unit wage structure. The effective date for these increases will be the beginning of the next OAC pay period following board approval.

**There are no recommendations for approval this month**

**4. Supervisory, Professional and Administrative (SPA) Salary Increases Due To Job Promotion**

The following SPA employees are selected for promotion. It is recommended the President be authorized to increase the salary of these employees. These SPA positions have been evaluated, graded, appropriate job descriptions completed, and posting guidelines fulfilled. The effective date for these salaries will be the beginning of the next SPA pay period following board approval.

<b>Employee:</b>	<b>Jill Schurman</b>
<b>Current position (department):</b>	Human Resources Generalist – Benefits (Human Resources)
<b>New position (department):</b>	ERP Technical/Functional Analyst I (Information Technology)
<b>Current rate; step/grade:</b>	\$87,832; SPA – 03
<b>Proposed rate; step/grade:</b>	\$92,224; SPA – 04
<b>Percent of increase:</b>	5.00%
<b>District hire date:</b>	December 28, 2020

<b>Employee:</b>	<b>David Miller</b>
<b>Current position (department):</b>	Instrument Technician (Gas Production)
<b>New position (department):</b>	Instrument & Training Foreman (Gas Production)
<b>Current rate; step/grade:</b>	\$49.22; Step 4
<b>Proposed rate; step/grade:</b>	\$107,497; SPA – 05
<b>Percent of increase:</b>	5.00%
<b>District hire date:</b>	September 10, 2001

Wage and/or Salary Increases and Ratifications

December 2023

Page 3

**5. Supervisory, Professional and Administrative (SPA) New Hire Ratification**

Board of Director Ratification of salaries, for new SPA employees hired from outside the District, is required to confirm the salary within the grade established for the position. Authorization to ratify the annual salary of SPA employees hired from outside the District will be requested each month, if appropriate.

<b>Employee:</b>	<b>Matthew Hammond</b>
<b>Current position (department):</b>	Vice President, Water Operations (Water Operations)
<b>Current rate; step/grade:</b>	\$196,800; SPA – 11
<b>District hire date:</b>	November 6, 2023

DocuSigned by:

*Bonnie Savine*

26D4ADB84CE943B...

Bonnie Savine

Vice President, Human Resources

**APPROVED:**

DocuSigned by:

*Mark Mendenhall*

51BB46700B95440...

Mark A. Mendenhall

Senior Vice President, General Counsel

DocuSigned by:

*Mark Doyle*

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Mark E. Doyle

President



**METROPOLITAN UTILITIES DISTRICT**

*Inter-Department Communication*

November 21, 2023

**Subject:** Updated District Boundaries

**To:** Judiciary and Legislative Committee

**Cc:** All Board Members; President Doyle; Senior Vice Presidents Ausdemore, Lobsiger, and Myers, Interim Senior Vice President Melville and all Vice Presidents

**From:** Mark Mendenhall, General Counsel

Throughout the course of the year, the District has entered into main extension agreements with developers seeking water, gas or both to serve various residential or commercial subdivisions. The result of those main extension agreements is an expansion of the District's boundaries.

Management is recommending the Board adopt and approve the updated boundaries as depicted on the attached map. Newly served areas can be identified on the attached subdivision maps in yellow with red cross hatch. The various newly served areas are also numbered and indexed on the bottom of each page. In total, there are fifteen new subdivisions spread throughout Douglas and Sarpy Counties. There were no additions to Washington or Saunders Counties.

After Board approval of the recommended changes, I will communicate the changes to a number of entities including the various election commissioner offices for the counties served by the District as well as the Nebraska Secretary of State's Office. That communication will serve to certify the updated boundaries in advance of the 2024 primary and general elections for Subdivisions 1 and 2.

This matter is on the agenda for the Committee meeting on December 6 and the regular Board meeting to follow. I will be present to answer any questions you may have.

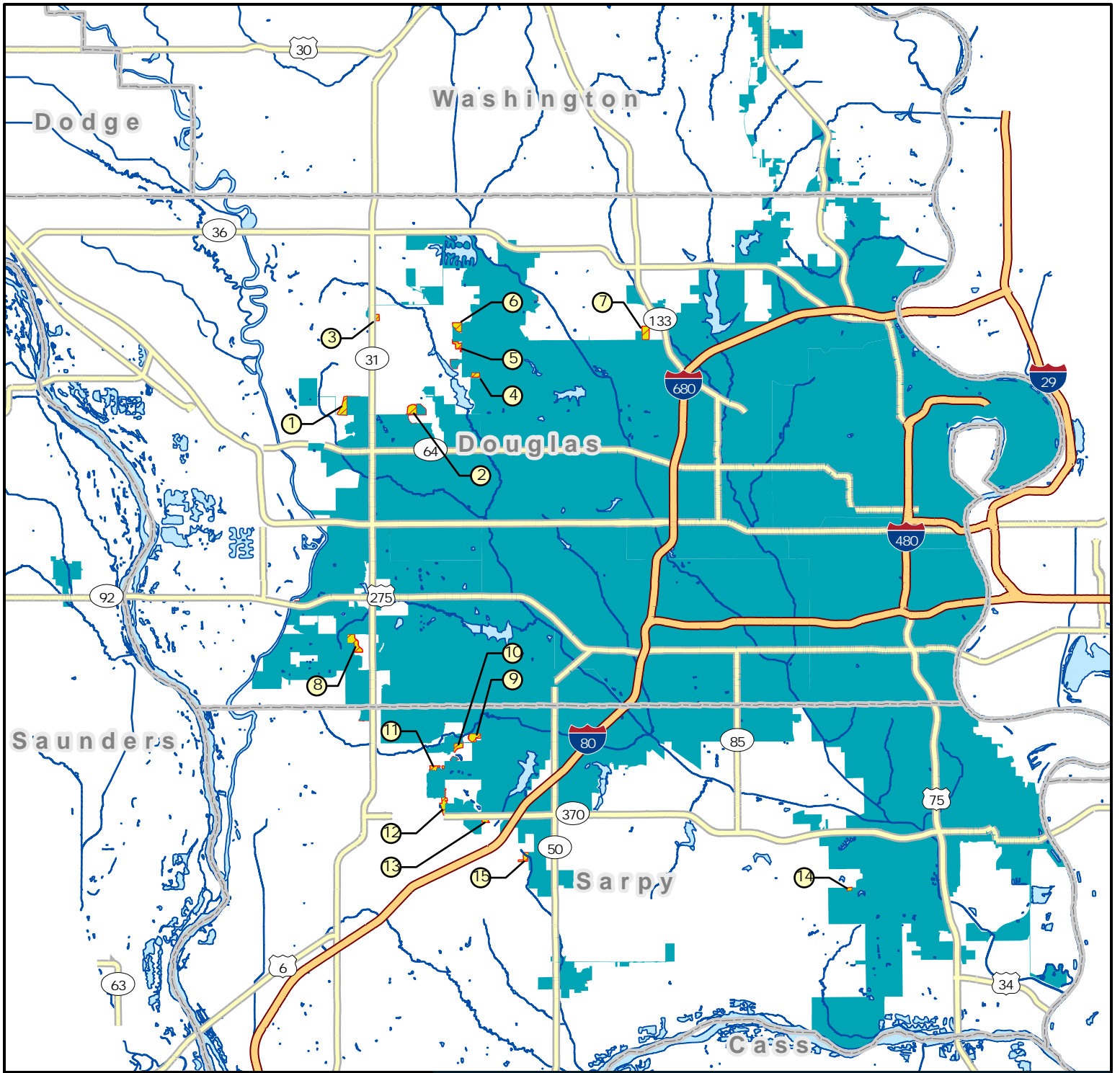


Mark Mendenhall  
Senior Vice President/General Counsel

Approved:



Mark Doyle  
President



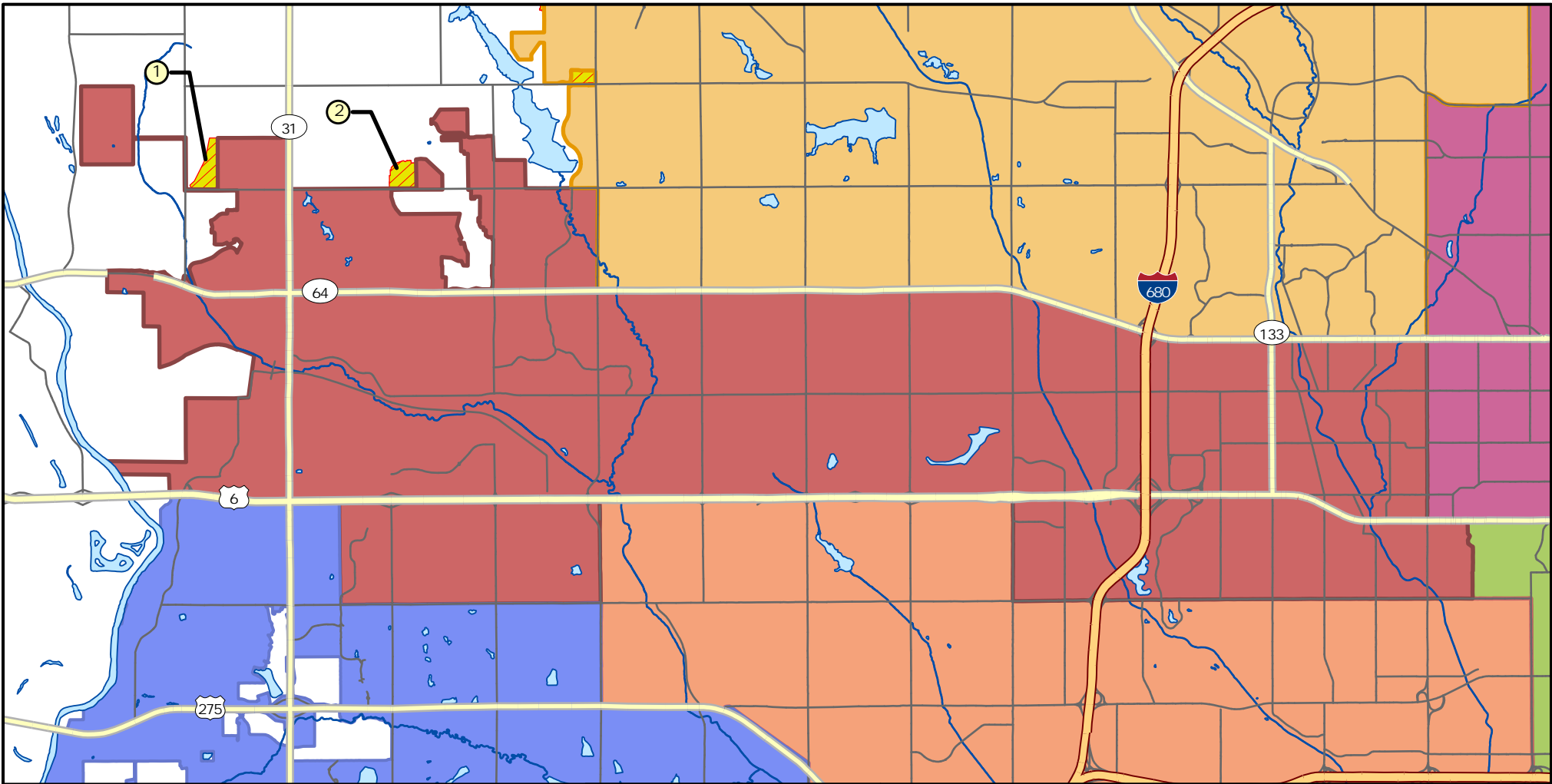
**METROPOLITAN  
UTILITIES DISTRICT**

**Service Area  
2023 Additions**

**Index New Additions**

1	Calarosa West lots 524-680
2	Daybreak Subdivision lots 1-117
3	Elkhorn Public Safety Facility
4	Anchor Pointe lots 303-307
5	Majestic 178 lots 1-98
6	Chestnut Hills lots 107-252
7	Project BlueSky
8	Iron Bluff Subdivision 1-92, 105 & Outlots A-D
9	Gretna ES # 8 - Cedar Construction Hollow South
10	Mirabel Subdivision Majestic 178 lots 13-17 & 44-84 and Majestic 178 Replat 1 lots 1-45
11	Hills of Aspen Creek lots 268-307, 332-353, & 364-376
12	Gretna Highschool # 2
13	Allora lots 1-4
14	Belle Lago Brownstones lots 1-63
15	R&R Commerce Park South













**METROPOLITAN  
UTILITIES DISTRICT**

**Subdivision 1  
2023 Additions**

Created By: JLK  
Date Created: 11-06-2023

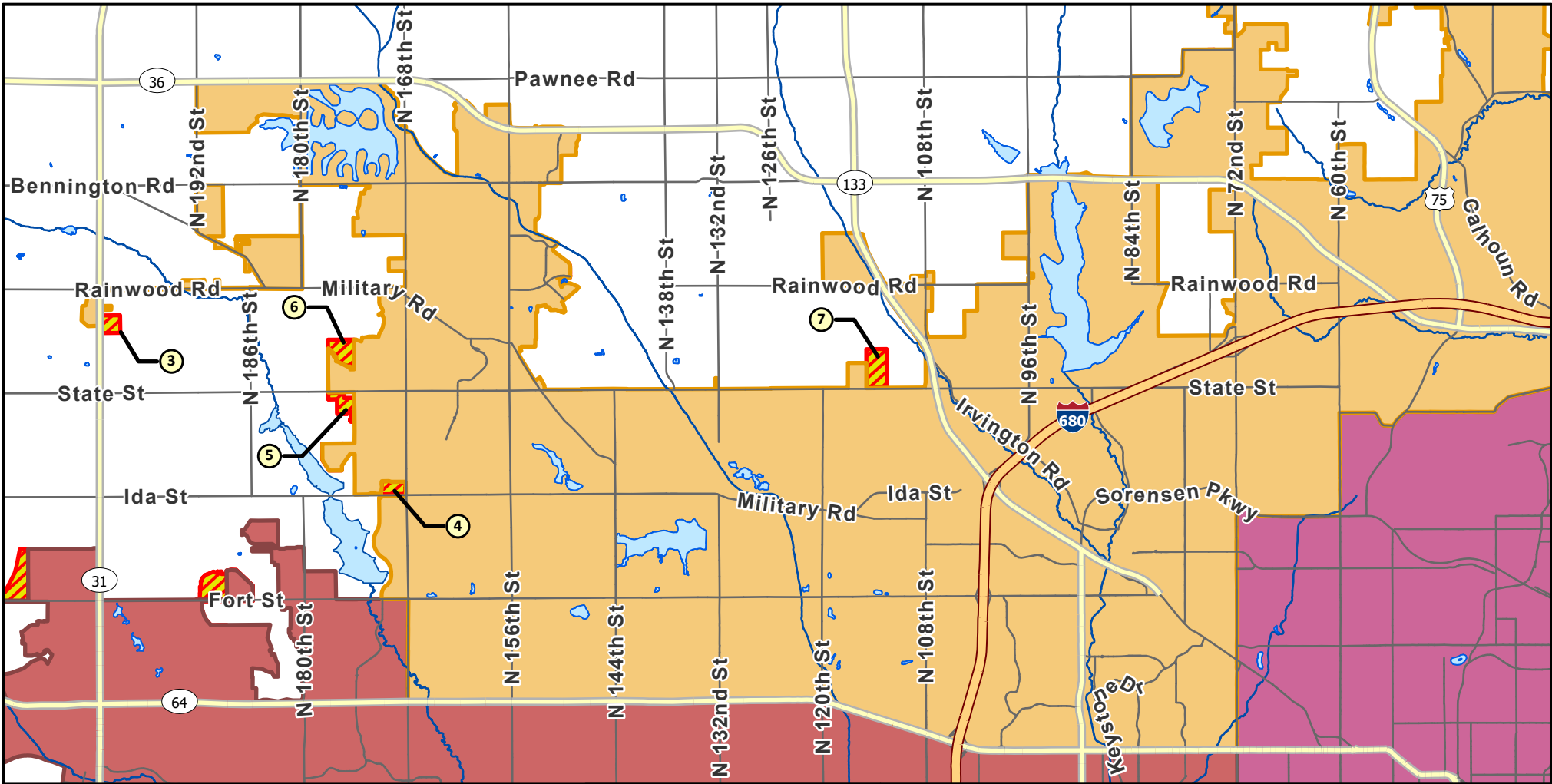
**Legend**

-  BoundaryAdditions2023
- Subdivision**
-  Subdivision 1
-  Subdivision 2
-  Subdivision 3
-  Subdivision 4
-  Subdivision 5
-  Subdivision 6
-  Subdivision 7



**Index New Additions**

1	Calarosa West lots 524-680
2	Daybreak Subdivision lots 1-117
3	Elkhorn Public Safety Facility
4	Anchor Pointe lots 303-307
5	Majest c 178 lots 1-98
6	Chestnut Hills lots 107-252
7	Project BlueSky
8	Iron Bluf Subdivision 1-92, 105 & Outlots A-D
9	Gretna ES #8 - Cedar Construct on Hollow South
10	Mirabel Subdivision Majest c 178 lots 13-17 & 44-84 and Majest c 178 Replat 1 lots 1-45
11	Hills of Aspen Creek lots 268-307, 332-353, & 364-376
12	Gretna Highschool #2
13	Allora lots 1-4
14	Belle Lago Brownstones lots 1-63
15	R&R Commerce Park South



**METROPOLITAN  
UTILITIES DISTRICT**

**Subdivision 2  
2023 Additions**

Created By: JLK  
Date Created: 11-06-2023

**Legend**

BoundaryAdditions2023

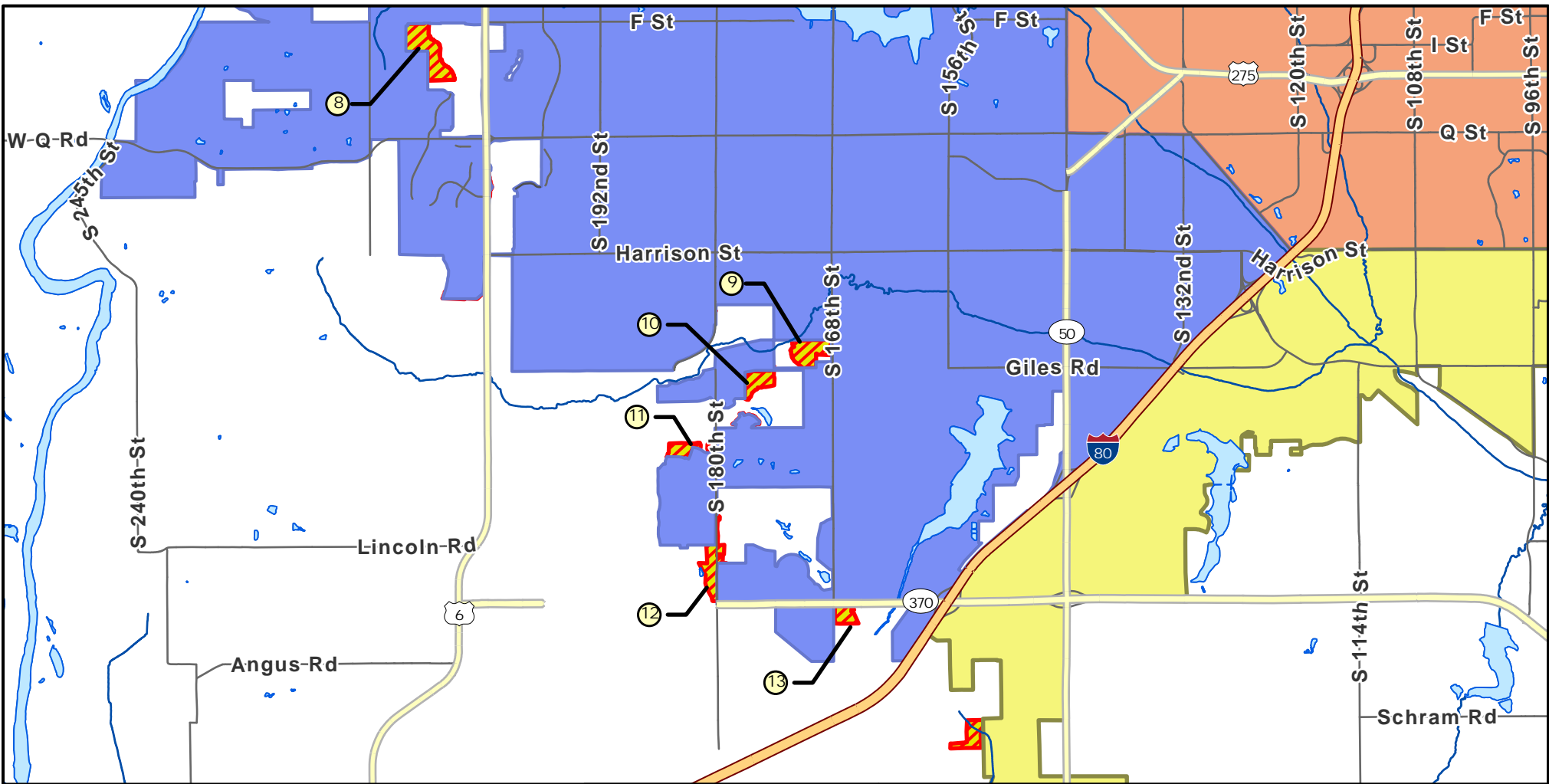
**Subdivision**

- Subdivision 1
- Subdivision 2
- Subdivision 3
- Subdivision 4
- Subdivision 5
- Subdivision 6
- Subdivision 7



**Index New Additions**

- | Index | New Additions   |
|-------|---|
| 1     | Calarosa West lots 524-680  |
| 2     | Daybreak Subdivision lots 1-117   |
| 3     | Elkhorn Public Safety Facility  |
| 4     | Anchor Pointe lots 303-307  |
| 5     | Majestic 178 lots 1-98  |
| 6     | Chestnut Hills lots 107-252   |
| 7     | Project BlueSky   |
| 8     | Iron Bluff Subdivision 1-92, 105 & Outlots A-D  |
| 9     | Gretna ES #8 - Cedar Construction Hollow South  |
| 10    | Mirabel Subdivision Majestic 178 lots 13-17 & 44-84 and Majestic 178 Replat 1 lots 1-45 |
| 11    | Hills of Aspen Creek lots 268-307, 332-353, & 364-376                                   |
| 12    | Gretna Highschool #2  |
| 13    | Allora lots 1-4   |
| 14    | Belle Lago Brownstones lots 1-63  |
| 15    | R&R Commerce Park South   |



**METROPOLITAN  
UTILITIES DISTRICT**







**Subdivision 4  
2023 Additions**

Created By: JLK  
Date Created: 11-06-2023

**Legend**

 BoundaryAdditions2023

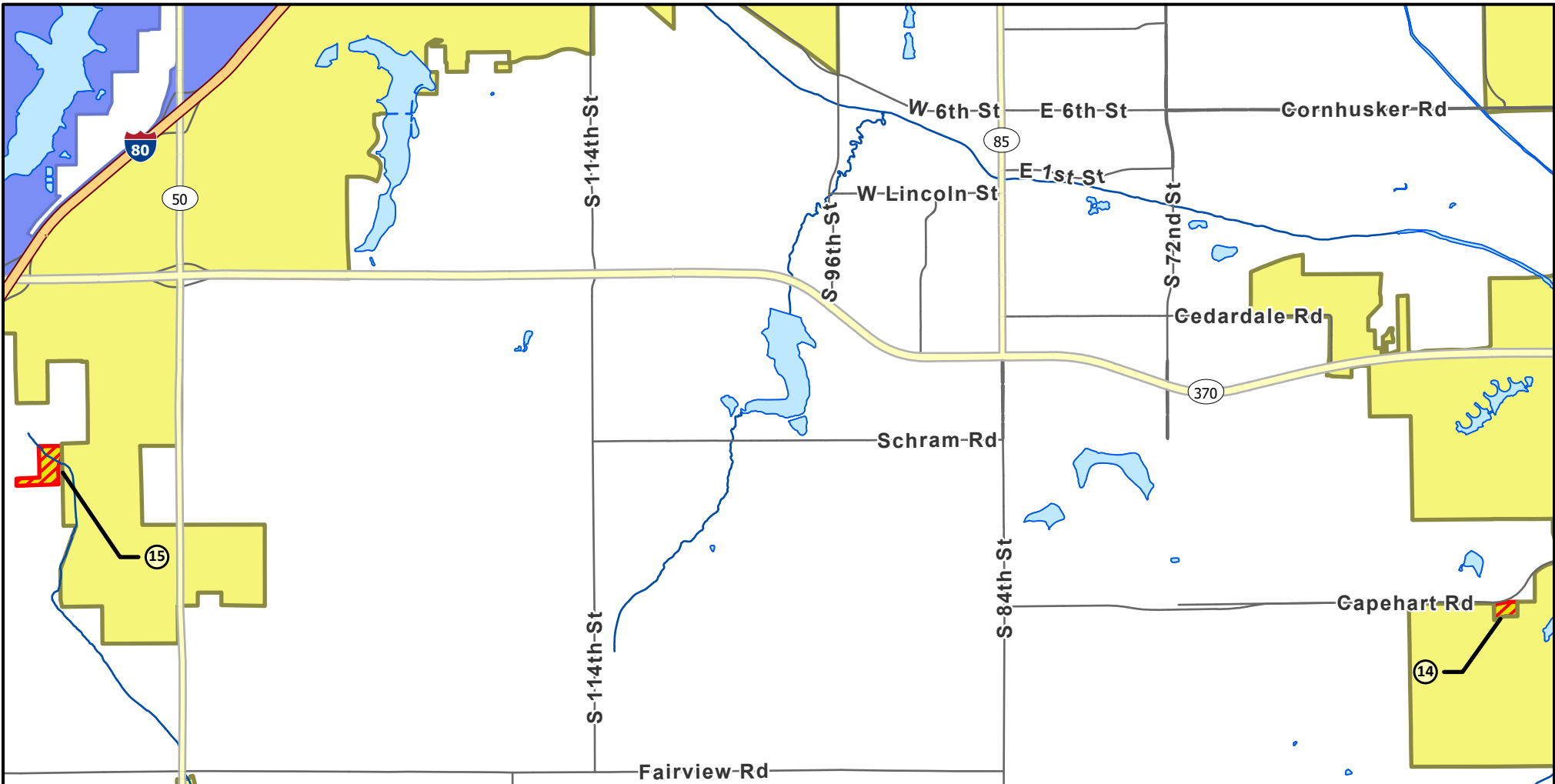
**Subdivision**

-  Subdivision 1
-  Subdivision 2
-  Subdivision 3
-  Subdivision 4
-  Subdivision 5
-  Subdivision 6
-  Subdivision 7

**Index New Additions**

1	Calarosa West lots 524-680
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15	R&R Commerce Park South





**METROPOLITAN  
UTILITIES DISTRICT**








**Subdivision 7  
2023 Additions**

Created By: JLK  
Date Created: 11-06-2023

**Legend**

 BoundaryAdditions2023

**Subdivision**

-  Subdivision 1
-  Subdivision 2
-  Subdivision 3
-  Subdivision 4
-  Subdivision 5
-  Subdivision 6
-  Subdivision 7



**Index New Additions**

1	Calarosa West lots 524-680
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15	R&R Commerce Park South

## METROPOLITAN UTILITIES DISTRICT

*Inter-Department Communication*

December 1, 2023

**Subject:** PURCHASE AND EASEMENT AGREEMENTS, SARPY COUNTY  
SOUTHWEST RESERVOIR FROM G. SCHRAM

**To:** Judiciary and Legislative Committee

**Cc:** All Board Members; President Doyle, Senior Vice Presidents Ausdemore, Lobsiger and Myers, Interim Senior Vice President Melville and all Vice Presidents

**From:** Mark Mendenhall Senior Vice President, General Counsel

The District began negotiations with property owner George Schram over a year ago with the goal of acquiring property near 168<sup>th</sup> and Capehart Road in Sarpy County, Nebraska. The property was identified as critical for the development of a future water reservoir and pump station. During those negotiations, the District and Mr. Schram agreed to a purchase agreement, attached hereto, for the acquisition of 20 acres on S. 168<sup>th</sup> Street, south of Capehart Road. This letter is requesting authority for Mr. Doyle to execute the purchase agreement and to finalize the terms of the associated easements.

This acquisition of the 20-acre Southwest Reservoir site and associated easements has been before the Board previously. The Board approved the expenditure of funds to acquire the 20 acres at the October 2023 meeting as it appeared on the Capital Expenditure letter. The Board also approved the use of condemnation at its April 2023 Board meeting for both the 20 acres and the easements although such efforts have proved unnecessary. In addition, the Board approved this effort as the same appeared on the approved 2023 and 2024 budgets. Finally, the Board approved the Water Main Extension Agreement with a developer who is ultimately responsible for the costs of the associated easements.

The District identified the need for a reservoir in Sarpy County to support current and future growth in the area. The area in question is home to several large water users that have required various large diameter water main extensions to provide water service. To support the current and future demands in this area, the Water Master Plan called for a water reservoir in this area. Those plans date to at least 2020. The associated easements will support large diameter water mains that will expand our system and its reliability to parts of Sarpy County.

The Southwest Reservoir will provide critical peak hourly support to the water distribution system. The site was selected based on a variety of factors including its topography, its elevation and its location along existing right of way and proximity to large diameter water mains.

Negotiations with Mr. Schram began in November 2022 and continued through last week. Over the course of negotiations, the District agreed to several conditions significant to the outcome. Those conditions include the price per acre, time of closing, due diligence period and impacts to Mr. Schram's farming operation among many others. As a result, the District is positioned to close on the acquisition in early 2024.

This letter is requesting authority to execute the purchase agreement for the 20-acre Southwest Reservoir site and the associated easements. The costs of the easements are borne by the developer pursuant to the applicable main extension agreements. Costs for the 20-acre site are included in the 2024 Water Department budget.

This matter will appear on the December 6, 2023 Committee Agenda and, subject to Committee review, the December 6, 2023 Board Agenda for consideration.

If you have any questions, please feel free to contact me.



Mark Mendenhall  
Senior Vice President/General Counsel

Approved:



Mark Doyle  
President



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NO SCALE

**PARCEL INFORMATION**

**WP1842 EXTENSIONS**

**2. Parcel #010403663**  
**SCHRAM/MARILYN C**  
**2.900 Ac. Permanent Easement**  
**0.602 Ac. Temporary Easement**  
**(WP1842 36" Water Main)**

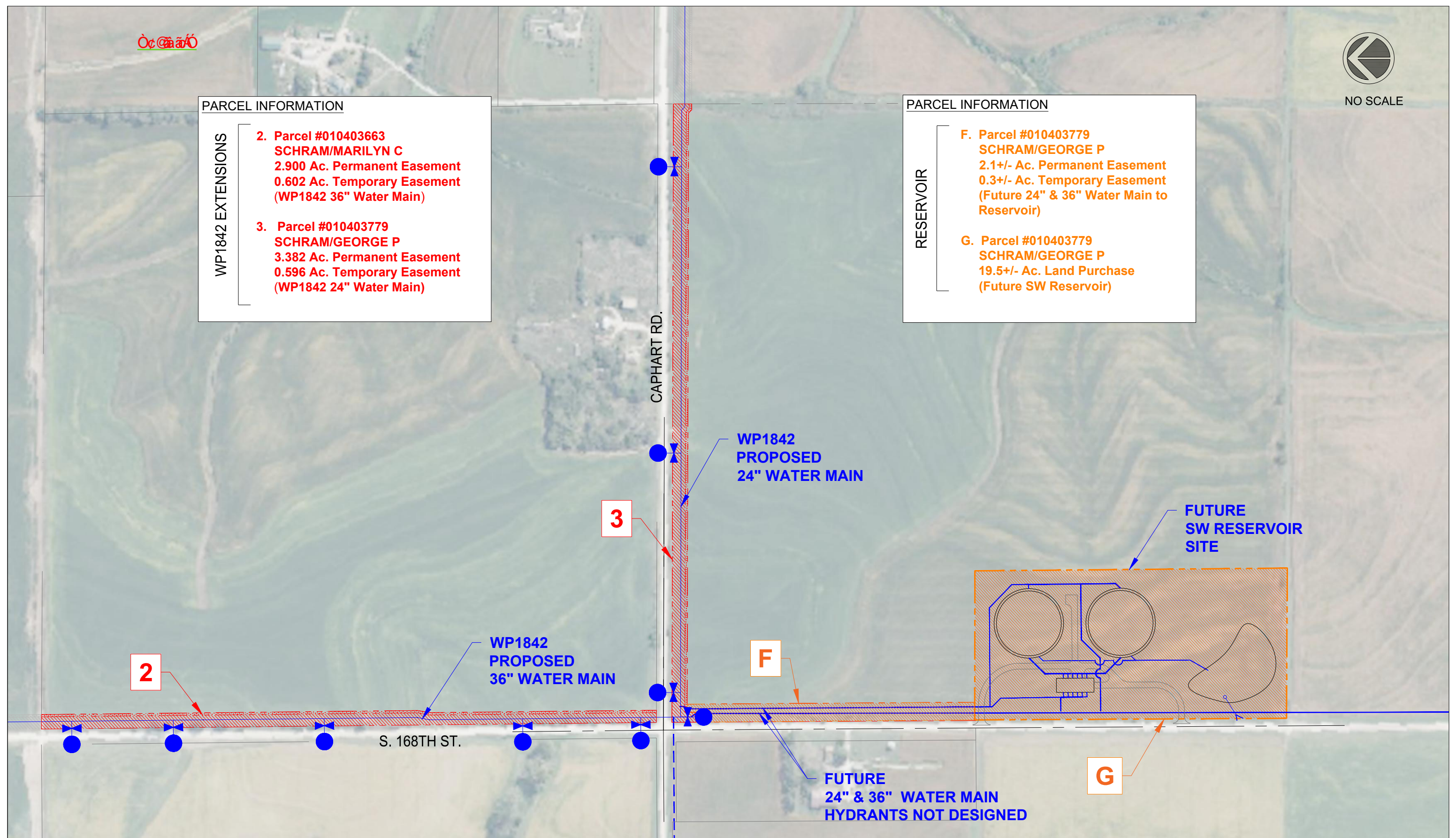
**3. Parcel #010403779**  
**SCHRAM/GEORGE P**  
**3.382 Ac. Permanent Easement**  
**0.596 Ac. Temporary Easement**  
**(WP1842 24" Water Main)**

**PARCEL INFORMATION**

**RESERVOIR**

**F. Parcel #010403779**  
**SCHRAM/GEORGE P**  
**2.1+/- Ac. Permanent Easement**  
**0.3+/- Ac. Temporary Easement**  
**(Future 24" & 36" Water Main to Reservoir)**

**G. Parcel #010403779**  
**SCHRAM/GEORGE P**  
**19.5+/- Ac. Land Purchase**  
**(Future SW Reservoir)**



## METROPOLITAN UTILITIES DISTRICT

*Inter-Departmental Communication*

November 29, 2023

**Subject:** DRINKING WATER STATE REVOLVING FUND LOAN

**To:** Committee on Accounts, Expenditures, Finance and Rates  
cc: All Board Members, Doyle, Ausdemore, Mendenhall, Lobsiger, Melville,  
and all Vice Presidents

**From:** Mark F. Myers, Senior Vice President, Chief Financial Officer

Management is requesting the Board approve the attached Bond Resolution allowing the District to negotiate and execute a loan agreement with the Nebraska Department of Environment and Energy (NDEE) and issue a water system revenue note in the aggregate stated principal amount not to exceed \$40 million.

In September 2023, the Board authorized management to apply for a Drinking Water State Revolving Fund (DWSRF) loan in the amount of \$40 million to begin funding the District's Lead Water Service Line Replacement Program.

The application was submitted, and a draft of the loan agreement has been received. A copy is attached for your reference. Management is reviewing this agreement and has engaged Gilmore & Bell P.C., our Bond Counsel, to assist with the loan financing process.

As presented at the September 2023 Board meeting, a plan has been developed to replace all existing lead water service lines within the District's service area by the end of 2034. There are approximately 16,000 lead water service lines within the system, including 12,000 verified and 4,000 assumed to contain lead.

The estimated cost to replace all 16,000 lead water service lines by 2034 is approximately \$157 million. This assumes a cost of \$8,000 per service increased annually for inflation and includes the cost of verifying the composition of the remaining 4,000 services assumed to contain lead.

A \$40 million DWSRF loan will provide significant funding to assist in launching this program and will establish a strong foundation for successful replacement of lead service lines within our community. It is estimated that this amount will fund the replacement of approximately 4,250 service lines.

This DWSRF loan offers favorable terms including:

- Loan forgiveness of up to 62% of eligible project costs, up to a ceiling of \$24.8 million. The loan forgiveness percentage is lower for lead service lines replaced in areas outside of poverty rate census tracts.
- Loan forgiveness of 100% for costs incurred to verify the number of lead service lines in the system (inventory verification) up to 10% of eligible project costs, with a maximum of \$4 million.
- Based on current projections, it is estimated that approximately 54%, or \$21.5 million, of the \$40 million loan will be forgiven, including inventory verification costs, requiring repayment of approximately \$18.5 million.
- Loan proceeds will be received on a reimbursement basis, with the loan balance growing only as costs are incurred.
- The loan will include a 0% interest rate and no annual administrative fee.
- The loan will be repaid over a 30-year term, beginning on December 15, 2026.

Management is asking the Board to approve the attached Bond Resolution to enable us to move forward with completion of the loan agreement. We will work with the NDEE to finalize all necessary documentation to allow for loan closing before the end of December 2023.

This matter will be placed on the agenda of the Accounts, Expenditures, Finance and Rates Committee meeting of December 6, 2023.

Thank you for your consideration. Please feel free to contact me with questions prior to the Board meeting.



Mark F. Myers  
Senior Vice President, Chief Financial Officer  
(402) 504-7174

Approved:



Mark E. Doyle  
President

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**BOND RESOLUTION**

**OF**

**THE METROPOLITAN UTILITIES DISTRICT OF OMAHA  
IN THE STATE OF NEBRASKA**

**ADOPTED  
DECEMBER 6, 2023**

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**AUTHORIZING:**

**WATER SYSTEM REVENUE NOTE  
SERIES 2023**

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## RESOLUTION

A RESOLUTION SUPPLEMENTAL TO THOSE CERTAIN RESOLUTIONS ADOPTED ON NOVEMBER 7, 2012, NOVEMBER 4, 2015, MAY 2, 2018 AND SEPTEMBER 7, 2022 CONCERNING THE AUTHORIZATION, ISSUANCE AND SALE BY THE METROPOLITAN UTILITIES DISTRICT OF OMAHA, OF A WATER SYSTEM REVENUE NOTE IN THE AGGREGATE STATED PRINCIPAL AMOUNT NOT TO EXCEED \$40,000,000, FOR THE PURPOSES OF FINANCING A PORTION OF THE COSTS OF EXTENDING, IMPROVING AND EQUIPPING IMPROVEMENTS AND ADDITIONS TO THE DISTRICT'S WATER SYSTEM AS DESCRIBED HEREIN; SUCH SERIES 2023 WATER SYSTEM REVENUE NOTE AND INTEREST AND PREMIUM, IF ANY, THEREON SHALL BE PAYABLE SOLELY FROM THE NET REVENUES OF THE DISTRICT'S WATER SYSTEM; PROVIDING FOR THE PAYMENT OF SUCH SERIES 2023 WATER SYSTEM REVENUE NOTE AND THE INTEREST THEREON AND OTHER DETAILS IN CONNECTION THEREWITH; RATIFYING ACTIONS PREVIOUSLY TAKEN FOR ISSUING SAID SERIES 2023 WATER SYSTEM REVENUE NOTE AND TOWARDS EFFECTING THE PURPOSE OF THEIR ISSUANCE; AND PROVIDING THE EFFECTIVE DATE HEREOF.

**Section 1. Findings.** The Board of Directors (the "**Board**") of The Metropolitan Utilities District of Omaha (the "**District**") hereby finds and determines:

- (a) The District has heretofore been duly organized pursuant to the provisions of Section 14-2101 to Section 14-2157, inclusive, Reissue Revised Statutes of Nebraska, 2012, as amended (the "**Act**").
- (b) Pursuant to the Act, the District's officers and directors have been duly elected and qualified and the District owns and operates a water system which supplies water for municipal, domestic, commercial and industrial use (the "**System**").
- (c) Pursuant to the Act and the resolutions set forth below, the District has heretofore issued and has outstanding on the date hereof the following bonds (collectively, the "**Outstanding Bonds**") payable from the revenues derived from the operation of the System, as indicated below:
  - (i) The Board by resolution adopted on February 8, 2006 (the "**Series 2006A Resolution**") authorized the issuance of its \$100,000,000 The Metropolitan Utilities District of Omaha Water Revenue Bonds, Series 2006A (the "**Series 2006A Bonds**"), none of which are outstanding and unpaid;
  - (ii) The Board, by resolution supplemental to the Series 2006A Resolution adopted on November 7, 2012, (the "**Series 2012 Resolution**") authorized the issuance of its \$40,745,000 The Metropolitan Utilities District of Omaha Water Revenue Bonds, Series 2012 (the "**Series 2012 Bonds**"), of which \$24,140,000 aggregate principal amount remains outstanding;
  - (iii) The Board, by resolution supplemental to the Series 2012 Resolution adopted on November 4, 2015, (the "**Series 2015 Resolution**") authorized the issuance of its \$188,895,000 The Metropolitan Utilities District of Omaha Water System Improvement and Refunding Revenue Bonds, Series 2015 (the "**Series 2015 Bonds**"), of which \$130,185,000 aggregate principal amount remains outstanding;

(iv) The Board, by resolution supplemental to the Series 2015 Resolution adopted on May 2, 2018, (the “**Series 2018 Resolution**”) authorized the issuance of its \$37,390,000 The Metropolitan Utilities District of Omaha Water System Revenue Bonds, Series 2018 (the “**Series 2018 Bonds**”), of which \$32,040,000 aggregate principal amount remains outstanding; and

(v) The Board, by resolution supplemental to the Series 2018 Resolution adopted on September 7, 2022, (the “**Series 2022 Resolution**”) authorized the issuance of its \$63,085,000 The Metropolitan Utilities District of Omaha Water System Revenue Bonds, Series 2022 (the “**Series 2022 Bonds**”), of which \$63,085,000 aggregate principal amount remains outstanding.

- (d) Other than the Outstanding Bonds identified above, there are presently no liens or pledges upon the revenues of the System of the District.
- (e) Each of the Outstanding Bond Resolutions provides for the issuance of Parity Revenue Bonds pursuant to a resolution supplemental to the Outstanding Bond Resolutions upon satisfaction of the conditions established by the Outstanding Bond Resolutions.
- (f) The Nebraska Department of Environment and Energy (“**NDEE**”) approved a project designated as NDEE Project No. D311693 relating to the acquisition, construction, improvement, repair, rehabilitation or extension of the District’s Water System (the “**Project**”) for which the estimated total cost is not less than \$40,000,000 and NDEE agreed to lend the District funds in such amount (the “**Loan**”) and in such connection has agreed to accept the NDEE Note (as defined and described below) payable from the revenues of the System.
- (g) In connection with the Loan, the District hereby determines it necessary and appropriate to approve, execute and deliver an agreement entitled “Loan Agreement (Governmental Borrower) between the Nebraska Department of Environment and Energy and Metropolitan Utilities District of Omaha NDEE Project No. D311693” (the “**Loan Agreement**”), the form of which is presented herewith and it is necessary and advisable for the District to approve the execution and delivery of said Loan Agreement and the “NDEE Note” described therein for the borrowed amount of up to \$40,000,000, which Note shall evidence, be and constitute the “NDEE Note” or “Bonds” described herein.
- (h) To satisfy the borrowing requirements described in this section, it is necessary for the District to issue its Water System Revenue Note, Series 2023, in the total principal amount of up to \$40,000,000 (referred to herein as the “**Series 2023 Note**” or the “**NDEE Note**”).
- (i) The Series 2023 Note shall be payable, both as to principal and interest, solely from the net revenues (the “**Net Revenues**”) derived or to be derived from the operation of the System, and the Series 2023 Note shall have a first, but not exclusive, lien on the Net Revenues.
- (j) The District has determined, and does hereby determine, to proceed with the sale of the Series 2023 Note, and desires to set forth certain terms for the Series 2023 Note and to authorize certain officers of the District to determine certain final terms for the Series 2023 Note, subject to the limitations set forth herein.
- (k) The District has determined to provide for the pledge of the Net Revenues for the payment of the principal of, premium, if any, and interest on the Series 2023 Note.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED BY THE BOARD OF DIRECTORS OF THE METROPOLITAN UTILITIES DISTRICT OF OMAHA:

**Section 2. Definitions.** All terms defined in **Section 1** of the Outstanding Bond Resolutions shall have the same meanings in this Bond Resolution as such terms are given in such **Section 1** except as otherwise defined herein.

**Section 3. Authorization of Agreement.** The Loan Agreement, together with the related Promissory Note of the District (the “**Series 2023 Note**”), in an amount not to exceed \$40,000,000 in substantially the form attached hereto as **Exhibit A** and incorporated herein by reference, but with such changes, modifications, amendments, revisions or alterations thereof as a District Officer shall, in the exercise of his or her own independent judgment and absolute discretion, determine to be necessary, proper, appropriate, advisable or desirable in order to accomplish the purposes set forth in the Loan Agreement, be and the same is in all respects hereby authorized, adopted, specified, accepted, ratified, approved and confirmed, and each District Officer is hereby authorized to execute and deliver the Loan Agreement and the Series 2023 Note (collectively, the “**Loan Documents**”) for and on behalf of the City.

**Section 4. Additional Bonds; Covenants and Representations.** It is now necessary, desirable, advisable and in the best interest of the District that it (1) acquire, construct, equip and furnish certain improvements to the System (collectively, the “**Project**”) as specified in the Loan Agreement and (2) finance a portion of the costs of the Project with the Loan, which Loan and the Series 2023 Note shall constitute Parity Revenue Bonds and Bonds (each as defined in the Series 2022 Resolution) pursuant to the Resolution.

Pursuant to the requirements of Section 27 of the Outstanding Bond Resolutions, the District makes the following covenants and representations with respect to the Loan:

- (a) The Net Revenues of the System for 12 consecutive months within the completed 18 months immediately preceding the issuance of the Loan and the Series 2023 Note have been not less than 1.20 times the Average Principal and Interest Requirements for any succeeding Fiscal Year on all Bonds then Outstanding payable from the System Revenues and the Loan; provided however, if new rates and charges have been established during the completed 18 months immediately preceding the issuance of the additional Parity Revenue Bonds, the Net Revenues of the System may be adjusted by applying the new rates to the connections being served during such period as if such rates had been in effect for the entire 18-month period;
- (b) The payments required to be made into the various funds and accounts provided in Sections 16 through 18, inclusive, of the Outstanding Bond Resolutions are current;
- (c) The District has not defaulted in making any payments required by Sections 16 through 18, inclusive, of the Outstanding Bond Resolutions during the 24 months immediately preceding the issuance of the Loan;
- (d) The Loan shall bear interest payable on the dates, and shall mature on the date or dates, designated by this Bond Resolution and as set forth in the Loan Agreement and the Series 2023 Note during the term of the Loan; and
- (e) Application of the proceeds from the sale of the Loan and the Series 2023 Note shall be as set forth in the Loan Agreement.

The Loan shall stand on a parity with the Outstanding Bonds and shall enjoy complete equality of lien on and claim against the Net Revenues with all Outstanding Bonds and any Parity Revenue Bonds issued

under and pursuant to the Resolution, and the District shall make equal provision for paying the Loan and the interest thereon out of the Revenue Fund.

**Section 5. Ratification of Prior Actions; General and Specific Authorizations.**

(a) All actions heretofore taken by the District, by any District Officer and by all other officers, officials, employees and agents of the District, including without limitation the expenditure of funds, and the selection, appointment and employment of consulting engineers, accountants, financial advisors, and bond counsel, in connection with the execution and delivery of the Loan Documents, together with all other actions taken in connection with any of the matters that are the subject hereof, are hereby in all respects authorized, adopted, specified, accepted, ratified, approved and confirmed.

(b) Without in any way limiting the power, authority or discretion granted or delegated elsewhere in this Bond Resolution, the Board hereby (1) authorizes and directs each District Officer, and all other officers, officials, employees and agents of the District to carry out or cause to be carried out, and to perform such obligations of the District and such other actions as they, or any of them, in consultation with bond counsel and NDEE and its counsel, shall consider necessary, advisable, desirable or appropriate in connection with this Bond Resolution, or other documents used in connection with the execution and delivery of the Loan Documents, including without limitation and whenever appropriate the execution and delivery thereof and of all other related documents, instruments, certifications and opinions, and (2) delegates, authorizes and directs each District Officer the right, power and authority to exercise his independent judgment and absolute discretion in (A) determining and finalizing the terms, provisions, form and contents of the Loan Documents not specifically set forth in this Resolution, and (2) the taking of all actions and the making of all arrangements necessary, proper, appropriate, advisable or desirable in order to effectuate the execution and delivery of the Loan Documents. The execution and delivery by each District Officer or by any such other officer, official, employee or agent of any such documents, instruments, certifications and opinions, or the performance by them of any act in connection with any of the matters that are the subject of this Bond Resolution and of each of the Loan Documents referred to herein, shall constitute conclusive evidence of both the District's and their approval of the terms, provisions and contents thereof and all changes, modifications, amendments, revisions and alterations made therein and shall conclusively establish their absolute, unconditional and irrevocable authority with respect thereto from the District and the authorization, approval and ratification by the District of the documents, instruments, certifications and opinions so executed and the actions so taken.

**Section 6. Headings.** The headings of sections of this Bond Resolution are set forth therein solely for convenience of reference only and shall not affect the construction or interpretation of this Resolution or of any section hereof.

**Section 7. Effectiveness.** This Bond Resolution shall become effective and shall be in full force and effect upon its adoption.

**Section 8. Electronic Transactions.** The transactions described herein may be conducted and this Resolution and related documents may be sent, received and stored by electronic means. All closing documents, certificates, and related instruments may be executed by electronic transmission. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents (or documents executed by electronic transmission) shall be deemed to be authentic and valid counterparts of such documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.



ADOPTED AND APPROVED BY THE METROPOLITAN UTILITIES DISTRICT OF OMAHA, this  
6th day of December, 2023.

THE METROPOLITAN UTILITIES DISTRICT OF  
OMAHA

By \_\_\_\_\_  
Chairperson of the Board of Directors

Attest:

\_\_\_\_\_  
Secretary of the Board of Directors of  
the District

[Signature Page to Bond Resolution]

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LOAN AGREEMENT  
(Governmental Borrower)

Between the

**NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY**

And

**METROPOLITAN UTILITIES DISTRICT OF OMAHA, NEBRASKA**

**NDEE PROJECT NO. D311693**

**DATED AS OF \_\_\_\_\_**

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**DRAFT COPY FOR REVIEW.**

**PLEASE SEE EMAIL FOR MORE INFORMATION.**

**ATTACHMENT E & ATTACHMENT F ARE NEEDED BEFORE  
LOAN CAN BE SIGNED.**

**THIS DOCUMENT IS LOCKED, BUT COMMENTS CAN BE MADE USING  
“REVIEW” RIBBON AND “NEW COMMENT” OPTIONS IN WORD.**

LOAN AGREEMENT  
BETWEEN THE  
NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY  
AND  
THE METROPOLITAN UTILITIES DISTRICT OF OMAHA, NEBRASKA  
PROJECT NO. D311693

This LOAN AGREEMENT with SRF Number D311693 (hereinafter "Loan Agreement") is entered into by and between the State of Nebraska, acting by and through the Nebraska Department of Environment and Energy (hereinafter "NDEE") and the Metropolitan Utilities District of Omaha, Nebraska (hereinafter "Borrower").

WITNESSETH THAT

WHEREAS, the federal Safe Drinking Water Act, including the Safe Drinking Water Amendments Act of 1996, and all amendment thereto (hereinafter "Federal Act") established a state revolving fund program; and

WHEREAS, to fund the state revolving fund program, the United States (US) Environmental Protection Agency (hereinafter "EPA") will make annual capitalization grants to the states under Catalog of Federal Domestic Assistance (CFDA) #66.468 for Safe Drinking Water State Revolving Funds, on the condition that each state provide an appropriate match for such state's revolving fund; and

WHEREAS, Nebraska Revised State Statute (Neb. Rev. Stat.) §71 5318 empowers the Director of the NDEE to loan available funds in the Drinking Water Facilities Loan Fund (hereinafter "Fund") to borrowers pursuant to the Drinking Water State Revolving Fund Act (hereinafter "Act") and rules and regulations adopted under such Act; and

WHEREAS, under the Act, the Director of the NDEE is given the responsibility for administration and management of the Loan Fund; and

WHEREAS, the Nebraska Investment Finance Authority (hereinafter "NIFA") is authorized under the Act and Neb. Rev. Stat. §58 201 et seq. to issue revenue bonds for the purpose of financing projects as defined under the Act, including to provide funds for the NDEE to borrowers and satisfy the state match requirements of the Federal Act; and

WHEREAS, pursuant to such authorization, NIFA proposes to issue from time to time its Drinking Water State Revolving Loan Fund Revenue Bonds for the purpose of providing funds to the NDEE to loan to persons owning or operating Public Water Systems in Nebraska to pay those eligible portions of the costs of acquiring, constructing, improving, repairing, rehabilitating or extending safe drinking water projects (as defined in the Act), in order to provide the state match requirements of the Federal Act; and

WHEREAS, the NDEE may from time to time enter into a pledge agreement with NIFA (hereinafter "Pledge Agreement"), pursuant to which the NDEE will pledge the interest portion of Loan Repayments (as defined herein) and certain other revenues to NIFA for the payment of the principal of, redemption premium, if any, and interest on Drinking Water State Revolving Fund Revenue Bonds which may be issued by NIFA from time to time; and

WHEREAS, the Borrower is an "Owner" as defined in Neb. Rev. Stat. §71 5316(7); and

WHEREAS, the project to be financed under this Loan Agreement and described in Exhibit 1 (hereinafter "Project") is an eligible project under the Act; and

WHEREAS, the project costs (as defined herein) are based upon estimates of the Borrower and at times during or at completion of construction the loan amount may be adjusted by the NDEE pursuant to Section 2.01 of this Loan Agreement; and

WHEREAS, the Borrower is listed in the NDEE Intended Use Plan; and

WHEREAS, the NDEE has approved the Borrower's application for a loan from federal funds and the state match requirement if and when received by and made available to the NDEE pursuant to the Federal Act and the Act to finance Project Costs; and

NOW, THEREFORE, for and in consideration of the award of this Loan Agreement by the NDEE, the Borrower agrees to complete the Project and to perform under this Loan Agreement in accordance with the conditions, covenants, and procedures set forth below:

## ARTICLE I

### DEFINITIONS

**Section 1.01. Definitions.** The following terms as used in this Loan Agreement will, unless the context clearly requires otherwise, have the following meanings:

- (a) "Act" means the Drinking Water State Revolving Fund Act, Neb. Rev. Stat. §§71-5314 to 71-5327, as amended.
- (b) "Additional Revenue Obligation" means any obligation for the payment of money undertaken by the Borrower which is payable from or secured by a pledge of, or lien upon, the Net Revenues incurred after the date of execution and delivery of this Loan Agreement, including any capital lease entered into by the Borrower the rentals of which are payable from, or secured by a pledge of or lien upon, Net Revenues.
- (c) "Authorized Representative" means the person or persons authorized pursuant to a resolution or ordinance of the governing body of the Borrower to perform any act or execute any document relating to this Loan Agreement.
- (d) "Bond Resolution" means the resolution of the Borrower adopted February 8, 2006 authorizing the issuance of water revenue bonds of the Borrower, as further supplemented and amended, including but not limited to that certain resolution adopted December 6, 2023, including any supplements thereto.
- (e) "Borrower" means the Metropolitan Utilities District of Omaha, Nebraska that is a party to and is described in the first paragraph of this Loan Agreement, and its successors and assignees.
- (f) "Current Expenses" means all reasonable and necessary current expenses of the Borrower, paid or incurred while operating, maintaining and repairing the System; and the term may include, at the Borrower's option (except as may be limited by law), without limiting the generality of the foregoing, engineering, auditing, legal and other overhead expense of the Borrower, insurance and surety bond premiums, reasonable charges of a paying agent and registrar and any other depository bank appertaining to the System, payments to pension, retirement, health and hospitalization funds; any taxes, assessments or other charges which may be lawfully imposed on the Borrower, or its income or operations of facilities under its control, ordinary and current rentals of equipment and other property, refunds of any revenues lawfully due to others, including, but not limited to, refunds, expenses in connection with the issuance of the Bonds or other obligations evidencing any loan to the Borrower, any expenses and compensation of any trustee or other fiduciary hereunder, or otherwise, contractual services, professional services required by this Resolution, salaries, labor and the cost of materials and supplies used for current operation and all other administrative, general and commercial expenses related to the System, but excluding: (a) any allowance for depreciation or any reserves or capital replacements; (b) any reserves for operation, maintenance or repair of the System; (c) any allowance for the redemption of any bond or other obligation evidencing a loan to the Borrower or the payment of any interest thereon; (d) liabilities incurred by the Borrower as the result of its negligence in the operation of the System or other grounds of legal liability not based on contract; and (e) the costs of any capital replacements, improvements, extensions or betterments.

- (g) “Cut-off Date” means the date established by the NDEE, prior to which, the Borrower will make the final disbursement request for eligible Project Costs.
- (h) “Disadvantaged business enterprise” or “DBE” means an entity owned or controlled by a socially and economically disadvantaged individual as described by Public Law 102-389 (42 U.S.C. 4370d) or an entity owned and controlled by a socially and economically disadvantaged individual as described by Title X of the Clean Air Act Amendments of 1990 (42 U.S.C. 7601 note); a Small Business Enterprise (SBE); a Small Business in a Rural Area (SBRA); or a Labor Surplus Area Firm (LSAF), a Historically Underutilized Business (HUB) Zone Small Business Concern, or a concern under a successor program.
- (i) “Drinking Water State Revolving Fund” or “DWSRF” means the Nebraska Drinking Water State Revolving Fund Act established pursuant to the Act and Regulations.
- (j) “Due Date” means the dates specified for payment of principal and interest on the Loan as specified in Section 2.06.
- (k) “Event of Default” means any occurrence or event specified in Article V of this Loan Agreement.
- (l) “Existing Revenue Obligation” means any obligation for a payment of money undertaken by the Borrower which is payable from or secured by a pledge of, or lien upon, the Net Revenues existing or outstanding at the time of execution and delivery of this Loan Agreement by the Borrower, including any capital lease entered into by the Borrower the rentals of which are payable from, or secured by a pledge of or lien upon, Net Revenues.
- (m) “Federal Act” means the Safe Drinking Water Act, et seq. as amended.
- (n) “Fund” means the Drinking Water Facilities Loan Fund established pursuant to the Act.
- (o) “GAAP” means generally accepted accounting principles as applicable to the Public Water System.
- (p) “Indebtedness” means any financial obligation of the Borrower for the repayment of borrowed moneys or credit extended, including, without duplication, this Loan, Revenue Obligations, general obligation bonds or notes, leases or lease-purchase agreements, or similar financial transactions in each case related to the System.
- (q) “Initiation of Operation” means the date on which the Borrower places the Project in operation or the Project is capable of being placed in operation for the purposes for which it was planned, designed, and built.
- (r) “Intended Use Plan” means a document prepared annually by the NDEE which identifies the intended use of all State Revolving Fund program funds.
- (s) “Late Payment” means any payment that is not received within fifteen days of the due date as established by this Loan Agreement.
- (t) “Lead Service Line” means a service line made of lead, which connects the water main to the building inlet. A lead service line may be owned by the water system, owned by the property owner, or both. A galvanized service line is considered a lead service line if it ever was or is currently downstream of any lead service line or service line of unknown material. Goosenecks, pigtails, and connectors, whether standalone or connected to a lead service line, may also be included as a part of lead line service for replacement projects.
- (u) “Loan” means the loan made by the NDEE to the Borrower to finance or refinance all or a portion of the Project Costs pursuant to this Loan Agreement.

- (v) "Loan Agreement" means this Loan Agreement, including the Attachments hereto, as it may be properly supplemented, modified or amended.
- (w) "Loan Amount" means the principal amount specified in Section 2.01 of this Loan Agreement and as amended which the NDEE has agreed to disburse to the Borrower subject to the terms, provisions, and conditions of this Loan Agreement and the availability of State and Federal Funds.
- (x) "Loan Finalization Date" means the date established by this Loan Agreement in which the Loan Amount is considered finalized and no further disbursement can be made outside of the Loan Agreement being amended.
- (y) "Loan Repayments" means the payments of the Loan required to be made by the Borrower pursuant to Section 2.06 of this Loan Agreement.
- (z) "Loan Terms" means the terms as established by this Loan Agreement.
- (aa) "NDEE" means the Nebraska Department of Environment and Energy established pursuant to Neb. Rev. Stat. §81 1501 et seq., as amended.
- (bb) "Net Revenues" means the System Revenues after deducting Current Expenses.
- (cc) "NIFA" means the Nebraska Investment Finance Authority, a public body politic and corporate and an instrumentality of the State, and its successors and assigns established pursuant to Neb. Rev. Stat. §58 201 et seq., as amended.
- (dd) "Note" means a promissory note of the Borrower with respect to the Loan in the form of Attachment F to this Loan Agreement.
- (ee) "Project" means an eligible item for funding under the Act and is as described in Exhibit 1 of this Loan Agreement.
- (ff) "Project Costs" means eligible costs or expenses necessary or incidental to the Project, which are directly attributable thereto and which in the determination of the NDEE are eligible under the Federal Act, and the Act, and Regulations. Estimated Project Costs are described in Attachment B.
- (gg) "Public Water System" means a Public Water System, as defined in Neb. Rev. Stat. §71 5301(10a).
- (hh) "Regulations" means the Nebraska Administrative Code, Title 131, Rules and Regulations for the Wastewater Treatment Facilities and Drinking Water Construction Assistance Programs, and any amendments thereto promulgated by the NDEE pursuant to the Act.
- (ii) "Retainage" means construction costs held back by the Borrower from the payments due to the contractor to assure satisfactory completion of the construction agreement.
- (jj) "Revenue Obligation(s)" means, without duplication, (i) the Loan; (ii) any Existing Revenue Obligation; and (iii) any Additional Revenue Obligation.
- (kk) "Sanitary Sewer Collection System" means the structures, equipment, and processes required to collect and transport sanitary sewer wastewater to the wastewater treatment facility.
- (ll) "SEC Rule" means Rule 15c2 12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as such rule may be amended from time to time or such other similar rule regarding disclosure of information in securities transactions.

- (mm) "State" means the State of Nebraska acting, unless otherwise specifically indicated, by and through the NDEE and its successors and assignees.
- (nn) "System" or "Water System" means the facility designated as the Borrower's water supply, waterworks and other related improvements and facilities to supply water within the Borrower's service area for irrigation, domestic or commercial use, and lines, laterals, equipment and appurtenances for the Borrower and its customers, consisting of all properties, real, personal, mixed or otherwise, now owned or hereafter acquired by the Borrower through acquisition, construction and completion, or otherwise, and used in connection with the water system of the Borrower, and in any way appertaining thereto, whether situated within or without the limits of the Borrower. The System expressly does not include the Borrower's facilities used in connection with or apportioned to its gas system.
- (oo) "System Revenues" means all income and revenues derived by the Borrower from the ownership and operation of the System, or any part thereof, whether resulting from improvements, extensions, enlargements, repairs or betterments thereto, or otherwise, including, without limitation, all investment income and the designated terms include all revenues received by the Borrower or by any municipal corporation succeeding to the rights of the Borrower from the System, and from the sale and use of water, water service, water facilities or a combination thereof, by means of the System owned and operated by the Borrower, as the same may at any time exist, to serve customers outside the present Borrower limits, as well as customers within the present Borrower limits, but excluding the proceeds of any general (ad valorem) taxes levied by the Borrower, and excluding the proceeds of any restricted donations, restricted grants, loans or other moneys derived by the Borrower from other than the operation of the System, or any part thereof. The System Revenues expressly do not include the Borrower's revenues from its gas system.
- (pp) "Trustee" means the trustee under any trust indenture with respect to revenue bonds the proceeds of which are deposited in the Fund.
- (qq) "User Charge System" means the methodology used to assess user charge fee(s) for the users of the System which produces the System Revenues.
- (rr) "Wastewater Treatment Facility" or "Wastewater Treatment Works" means the structures, equipment, and processes required to treat domestic or industrial wastes and to discharge or dispose of the effluent and sludges.

## **ARTICLE II**

### **LOAN CONDITIONS AND TERMS**

**Section 2.01. Amount of the Loan.** Subject to all of the terms, provisions, and conditions of this Loan Agreement, and subject to the availability of state and federal funds, the NDEE will loan an amount not to exceed forty million dollars (\$40,000,000) to the Borrower to pay a portion of the Project Costs described in Attachment B hereto.

(a) Loan Forgiveness.

- (1) The total award of all Loan Forgiveness cannot exceed seventy-five percent of the total amount of eligible Project Costs.
- (2) Loan Forgiveness. This Loan Agreement includes DWSRF Loan Forgiveness of up to 62.0% of the eligible Project Costs, up to a ceiling of twenty-four million, eight hundred thousand dollars (\$24,800,000). For any project costs incurred in areas outside of poverty rate census tracts, Loan Forgiveness will be at a rate of up to 39.89%.

- (3) Lead Service Line Inventory Grant. This Loan Agreement includes DWSRF Lead Service Line Inventory Grant of up to 10.0 % of the eligible Project Costs, up to a ceiling of four million dollars (\$4,000,000).
- (4) All Loan Forgiveness shall be effective only upon the completion of the Project in accordance with this Loan Agreement, including compliance with the requirements of the DWSRF, as determined by the NDEE and Initiation of Operation. The amount of such Loan Forgiveness shall be stated on the final Attachment A repayment schedule prepared by the NDEE following disbursement of the full Loan Amount and Initiation of Operation.

The final actual amount of the Loan and any Loan Forgiveness may be reduced without revision of any other terms, provisions, or conditions of this Loan Agreement, other than adjustment by the NDEE to the final repayment schedule in Attachment A hereto, to reflect reductions in the estimated or actual total Project Costs as impacted by opening of bids for construction, change orders, final actual costs, and prepayments.

The Borrower must make provisions for the payment of all costs of the Project exceeding the Loan Amount. The NDEE may provide supplemental loan funds through a separate Loan Agreement. Receipt of any supplemental loan funds is dependent on availability of unobligated funds in the Fund and any obligation of additional funds to this Project is at the sole discretion of the NDEE with such revised or additional terms, conditions, and covenants as the NDEE may require.

**Section 2.02. Term of the Loan.** The Borrower agrees to fully repay the Loan with interest on the date of Initiation of Operation or to begin repayment of principal and interest on the Loan within one (1) year from the date of Initiation of Operation, but no later than three (3) years from the date of the Loan, whichever occurs first, and to repay such Loan in full no later than thirty (30) years from Initiation of Operation and to pay all principal, interest, administrative fees, and penalty fees when due. The Borrower shall provide the NDEE no less than 60 days written notice of its intent to repay the Loan all or in part on the date of the Initiation of Operation.

**Section 2.03. Interest Rate.** The interest rate on this Loan is determined by the NDEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. The interest rate on this Loan is 0.0% per annum (calculated on the basis of a year equaling 360 days made up of 12 months of 30 days each) to be paid pursuant to Section 2.06 of this Loan Agreement.

**Section 2.04. Administrative Fee.** The administrative rate on this Loan is determined by the NDEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. The Borrower shall pay to the NDEE, or at the direction of the NDEE, to the NIFA or the Trustee, an annual administrative fee of 0.0% per annum (calculated on the basis of a year equaling 360 days made up of 12 months of 30 days each) to be paid pursuant to Section 2.06 of this Loan Agreement.

**Section 2.05. Disbursement of Loan.** Until the date of Loan Finalization, the Borrower may request disbursement of the loan pursuant to the following conditions:

- (a) Upon receipt of a disbursement request for work completed accompanied by any certification from the Borrower required by the NDEE, the NDEE shall make progress disbursements as established by Section 2.01 of this Loan Agreement that correspond to such request of the Loan Amount to be used by the Borrower for Project Costs. The Borrower may obtain a copy of the disbursement record upon request to the NDEE. Each disbursement shall be Automated Clearing House (ACH) by the State of Nebraska and shall be equal to that portion of the unobligated principal amount incurred to the date of the request for disbursement from the Borrower.
- (b) Minimum Disbursement Percentage. The minimum amount of a disbursement request that is not a final request must be at least 5% of the total loan amount of this Loan Agreement or \$150,000, whichever is the lesser, or the NDEE may choose not to process the request.



- (c) Submitted requests for disbursement must be supported by the following: (i) proper invoices for Project Costs; (ii) a certificate of the Authorized Representative to the effect that all representations made in this Loan Agreement remain true as of the date of the request and that no adverse developments affecting the financial condition of the Borrower or its ability to complete the Project or to repay the Loan have occurred since the date of this Loan Agreement; and (iii) other documentation acceptable to and approved by the NDEE.
- (d) The Borrower may request disbursement of the Loan Amount for eligible Project Costs, when such Project Costs have been incurred and are due and payable to project contractors. However, actual payment of such Project Costs by the Borrower is not required as a condition of a disbursement request. Any Retainage withheld by the Borrower corresponding to the progress payment made to any contractor will be withheld by the NDEE until such Retainage is either reduced or released to the contractor by the Borrower.
- (e) The Borrower shall submit a draft of the operation and maintenance manual for the Project to the designated Engineering Section at NDEE before disbursements exceed 75% of the Project Costs. The Borrower shall submit a final operation and maintenance manual to the designated Engineering Section at NDEE and receive approval before disbursements exceed 95% of the Project Costs or final disbursement, whichever comes first.
- (f) If a request for disbursement is not received by the NDEE within eighteen (18) months from either the effective date of this Loan Agreement or the last disbursement request, the NDEE may finalize, close, or terminate this agreement pursuant to Section 6.12 of this Loan Agreement.

**Section 2.06. Loan Payments.**

- (a) Principal and Interest Payments. The Borrower shall pay to the NDEE, or at the direction of the NDEE, to the NIFA or the Trustee, on or before the due dates specified below, but only from the sources specified in Section 3.02 hereof, appropriate installments of principal and interest until all principal and interest due on the Loan to the NDEE has been paid in full. Installments of principal, interest, and administrative fees shall be paid semiannually on December 15 and June 15 of each year in accordance with the Loan Repayment Schedule in Attachment A; provided that, following the receipt of the Initiation of Operation date and the final disbursement of Loan proceeds to the Borrower, a revised Attachment A shall be prepared by the NDEE to establish the final debt service schedule based upon the parameters described in the projected Attachment A. Such revised final Attachment A thereafter shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace the projected Attachment A.

The NDEE will send the Borrower an invoice 30 days prior to the due date of each payment. When a Loan disbursement occurs after invoices are mailed, the NDEE will include adjustments for interest and fee charges on the next semiannual invoice.

- (b) Optional Prepayment of the Loan.
  - (1) If the Borrower is receiving Loan Forgiveness, the Borrower may not prepay the Loan in whole or in part within ten (10) years of the date of this Loan Agreement. After the ten years, the Borrower may prepay the Loan together with any accrued interest in whole or in part without penalty upon giving no less than 60 days written notice to the NDEE of its intent to prepay.
  - (2) If the Borrower is not receiving Loan Forgiveness, the Borrower may prepay the Loan together with any accrued interest in whole or in part at any time without penalty upon giving no less than 60 days written notice to the NDEE of its intent to prepay.
  - (3) Once the Borrower is able to prepay the loan, the Borrower may make a partial prepayment of the Loan Amount only if the prepayment amount is greater than the lesser of 10% of the outstanding

amount of the Loan, or fifty thousand dollars (\$50,000). The NDEE shall prepare a new Loan Repayment Schedule to revise Attachment A following receipt of any partial prepayment of the Loan and such revised Attachment A thereafter shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace Attachment A.

- (c) Mandatory Prepayment of Loan. If the Borrower receives a grant from any source for any portion of the Project Costs for which a portion of the Loan Amount has been disbursed and is outstanding under this Loan Agreement, the Borrower must notify the NDEE immediately and such portion of the Loan Amount shall become immediately due and payable.
- (d) Delinquent Payment Penalty and Penalty Interest. Payments may be considered delinquent by the NDEE if not received within 15 days of the due date and for any such delinquent payment, the Borrower agrees to pay a 5% administrative penalty of said delinquent payment. In addition, the Borrower agrees to pay penalty interest on any such delinquent payment at the rate of 1% per month of the amount of such delinquent payment from and after the due date until it is paid. Failure to pay any payment or other charges due within sixty days of the date due will result in the Borrower's account to be considered a delinquent account, subject to State of Nebraska action pursuant to the provisions of Article V of this Agreement.

**Section 2.07. Project Schedule**. The Borrower agrees to perform steps of the Project in accordance with the following projected schedule of milestone dates:

- (a) Construction Start – January 2024
- (b) Substantial completion of construction – December 2026
- (c) Initiation of Operation – December 2026

**Section 2.08. Disadvantaged Business Enterprises**. The Borrower hereby agrees to the following:

- (a) To comply with the requirements of the EPA's Disadvantaged Business Enterprise (DBE) Program for procurement activities under assistance agreements, contained in 40 CFR, Part 33, and, to the fullest reasonable extent possible, ensure that at least ten percent will be made available to Disadvantage Business Enterprises for the Project;
- (b) To make the following good faith efforts whenever procuring construction, equipment, services, and supplies:
  - (1) Ensure DBEs are made aware of contracting opportunities to the fullest extent practicable through outreach and recruitment activities. This includes placing DBEs on a solicitation list and soliciting them whenever they are potential sources;
  - (2) Make information on forthcoming opportunities available to DBEs and arrange time frames for contracts and establish delivery schedules, where the requirements permit, in a way that encourages and facilitates participation by DBEs in the competitive process. This includes, whenever possible, posting solicitations for bids or proposals for a minimum of 30 calendar days before the bid proposal closing date;
  - (3) Consider in the contracting process whether firms competing for large contracts could subcontract with DBEs. This includes dividing total requirements when economically feasible into smaller tasks or quantities to permit maximum participation by DBEs in the competitive process;
  - (4) Encourage contracting with a consortium of DBEs when a contract is too large for one of these firms to handle individually;

- (5) Use the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department Commerce; and
- (6) If the prime contractor awards subcontracts, require the prime contractor to take the steps in paragraphs (1) through (5) of this section.

**Section 2.09. Borrower's System Bond Resolution and User Charge Systems.**

- (a) The Borrower agrees to obtain approval from the NDEE of its User Charge System, and to adopt and implement any necessary changes before the Project is placed in operation.
- (b) The Borrower agrees that it shall not modify, amend, make additions to, or deletions from its Bond Resolution or User Charge System without the consent of the NDEE during the term of the Loan Agreement; with the exceptions of the following changes:
  - (1) Any increase in rates and charges necessary or deemed necessary by the governing body of the Borrower in order to comply with the provisions of this Loan Agreement, the Bond Resolution, or any resolution and other agreement pursuant to which any Revenue Obligations have been issued, and for which the net revenues of the User Charge Systems have been pledged;
  - (2) Any increase deemed necessary by the governing body of the Borrower in order to permit the issuance of or provide for the payment of Additional Revenue Obligations; or
  - (3) Any changes permitted by the provisions of the Bond Resolution.

**Section 2.10. Other Conditions and Terms.**

- (a) Engineering Services. The Borrower shall provide and maintain competent and adequate engineering supervision and resident inspection during construction.
- (b) Construction Agreement Award. The Borrower shall obtain the NDEE concurrence and authorization of the construction agreement.
- (c) Initiation of Operation. The Engineering Section at the NDEE shall provide written notification to the NDEE of the date of Initiation of Operation of the Project. On failure of the Engineering Section to set an acceptable Initiation of Operation date the NDEE will look at the construction record or placement into service date and set the Initiation of Operation date.
- (d) Construction Completion. The Borrower shall provide written notification to the NDEE of the construction completion date of the Project.
- (e) Capacity Development. The Borrower agrees to maintain a system of records for annual review and reporting of technical, managerial, and financial capacity of the System to demonstrate continued compliance with the requirements of the Nebraska Safe Drinking Water Act as provided under Nebraska Administrative Code, Title 179 – Public Water Systems, and the requirements of an operating permit, as issued by the NDEE. The Borrower agrees to make any necessary system changes to achieve an acceptable Public Water System Capacity Survey assessment; acceptable, as determined by the NDEE prior to final disbursement of loan proceeds, and to maintain that acceptable assessment level status during the period of repayment.
- (f) Contractor's Security. The Borrower agrees to require any contractor of the Project to post separate performance and payment bonds or other security approved by the NDEE in the amount of the bid.

- (g) Certified Operator. The Borrower agrees to provide a certified operator pursuant to Nebraska Administrative Code, Title 179 – Public Water Systems, Chapter 2, Regulations Governing Public Water Supply Systems.
- (h) Site Title and Easements. The Borrower must certify that, for its lead service line replacement project, site title does not need to be acquired or held by the Borrower for real property where service lines are located, from a point extending from the water main to the point where the service line replacement extends.
- (i) Contractor's Payments. The Borrower agrees to make prompt payment to its contractor(s) of sums due for construction and to retain only such amounts as may be justified by specific circumstances and provisions of the construction agreement.
- (j) Bid Solicitation. The Borrower agrees to notify the NDEE of its intent to solicit bids for the project and to request the latest State Revolving Fund Federal Assurance Packet from the NDEE. The Borrower agrees to follow the directions in the packet and to include and insert all the required information, text, documents, and other items into the bid solicitation in accordance with the packet.
- (k) Debarment or Suspension. The Borrower acknowledges that doing business with any party that has been declared ineligible to receive federal contracts may result in an event of default, disallowance of federal funds under this Loan Agreement, and may also result in suspension or debarment under 40 CFR Part 32. Instructions for finding the federal list of current companies declared ineligible can be found at the following website: <https://www.dol.gov/agencies/ofccp/debarred-list>.
- (l) Other Federal Requirements. The Borrower agrees to comply with other applicable Federal Requirements in Attachment D hereto.
- (m) Project Sign. If requested by the NDEE, the Borrower agrees to display a project sign created by the NDEE. The displaying of a project sign may include both physical displays and digital displays. This can include, but not be limited to, a physical board provided by the NDEE to be displayed at a designated site, digital graphic to be posted on a Borrower's website, or image and text to be posted in a newsletter, community notice, or newspaper. The NDEE will provide instructions for displaying the Project Sign.
- (n) Employment under Public Contracts, LB 403. The Borrower agrees to comply with the provisions of Legislative Bill 403, approved by the Governor on April 8, 2009. The following language is required and will be included in all agreements made with contractors and is a pass-through requirement for his or her subcontractors.

"The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee. If the Contractor is an individual or sole proprietorship, the following applies: 1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us); 2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program; and, 3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108."

(o) Wage Rate Requirements. Davis-Bacon prevailing wage requirements will apply to the construction, alteration, and repair of a public building or public work, or building or work carried out in whole or in part with assistance made available by this Loan Agreement. For wages that require a Davis-Bacon prevailing wage, the Borrower certifies compliance with the following:

(1) Obtaining a Wage Determination.

(i) Wage Determinations for Soliciting. The Borrower is responsible for and shall obtain the wage determinations for the locality of the project prior to issuing requests for bids, proposals, quotes, or other methods for soliciting contracts for the project (hereinafter "soliciting"). These wage determinations will be incorporated into solicitations and any subsequent contracts. Prime contract must contain a provision requiring that subcontractors follow the wage determinations incorporated into the prime contract.

1. Monitoring for Current Wage Determinations During Solicitation Period. While the solicitation remains open, the Borrower shall monitor <https://sam.gov/> weekly to ensure that the wage determinations contained in the solicitation remain current. The Borrower shall amend the solicitation if the Department of Labor issues a modification to the wage determinations more than ten (10) days prior to the closing date for the solicitation.

2. Monitoring for Current Wage Determinations After Closing Date. Unless extended in writing by the NDEE, if the Borrower does not award the contract within ninety (90) days of the closing date for the solicitation, the Borrower shall monitor <https://sam.gov/> on a weekly basis for any modifications or supersedes the Department of Labor makes on the wage determinations contained in the solicitation and shall amend the solicitation.

(ii) Wage Determinations for Non-Published Solicitations. If the Borrower issues a task order, work assignment, or similar instrument to an existing contractor, or ordering instrument, rather than by publishing a solicitation, the Borrower shall insert the appropriate wage determinations from <https://sam.gov/> into the ordering instrument.

(iii) Verification of Wage Determinations Inclusion. The Borrower shall review all contracts and subcontractors and verify that all contracts include the applicable wage determinations.

(iv) Issuance of Revised Wage Determinations. The Department of Labor may issue a revised wage determination applicable to a Borrower's contract after the award of a contract or the issuance of an ordering instrument if the Department of Labor determines that the Borrower has failed to incorporate a wage determination or has used a wage determination that clearly does not apply to the contract or ordering instrument. If this occurs, the Borrower shall either: i) terminate the contract or ordering instrument and issue a revised solicitation, or ii) incorporate the Department of Labor's wage determination retroactive to the beginning of the contract or ordering instrument by change order. All contractors must be compensated for any increases in wages resulting from the use of the Department of Labor's revised wage determination.

(2) NDEE Federal Assurance Package. Before soliciting, The Borrower agrees to contact the NDEE for the most recent applicable NDEE Federal Assurance Package and to incorporate the package into the solicitation documents. If the Borrower has failed to incorporate the most recent applicable NDEE Federal Assurance Package, the Borrower shall either: i) terminate the contract or ordering instrument and issue a revised solicitation, or ii) incorporate the NDEE Federal Assurance Package by change order.

- (3) Contract and Subcontract Provisions. The Borrower shall insert in full for any contract entered into for the actual construction, alteration, and/or repair, including painting and decorating, of a public building or public work, or building, or work as defined by the NDEE, the required clauses as listed in most recent applicable NDEE Federal Assurance Package.
- (i) Unlisted Classifications. The Borrower shall require that any class of laborers or mechanics, including helpers, which is not listed in the applicable wage determination and which is to be employed under the contract shall be classified in conformance with the wage determinations in accordance with procedures established within the NDEE Federal Assurance Package.
  - (ii) Weekly Payroll Review and Certifications. The Borrower shall monitor, collect, and review weekly payrolls for each week in which any contract work is performed and provide written confirmation in a form satisfactory to the NDEE indicating whether or not the project is in compliance with the Davis-Bacon prevailing wage requirements.
  - (iii) Withholding Payments. The Borrower shall, upon written request by authorized representatives of the NDEE, the EPA, or of the Department of Labor, withhold or cause to be withheld from a contractor under this Loan Agreement or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the EPA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
- (4) Contract Provisions for Contracts in Excess of \$100,000. All contracts in an amount in excess of \$100,000 must comply with the Contract Work Hours and Safety Standards Act, 40 U.S.C. 3701 et seq., as amended. The Borrower shall insert in full for any contract in excess of \$100,000 the required clauses as listed in the most recent applicable NDEE Federal Assurance Package. In addition:
- (i) Withholding Payments. The Borrower, upon written request by authorized representatives of the NDEE, the EPA, or of the Department of Labor, shall withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as determined by the NDEE.
  - (ii) Maintaining of Payroll and Records. The Borrower shall insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Borrower shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the NDEE, EPA and the Department of Labor, and the contractor or

subcontractor will permit such representatives to interview employees during working hours on the job.

(5) Compliance Verification.

- (i) Interview Requirement. The Borrower shall periodically interview a sufficient number of employees entitled to Davis-Bacon prevailing wages to verify that contractors and/or subcontractors are paying the appropriate wages. All interviews must be conducted in confidence. The Borrower must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of Standard Form 1445 are available from the EPA upon request.
- (ii) Interview Frequency. The Borrower shall establish and follow an interview schedule based on its assessment of the risks of noncompliance with the Davis-Bacon prevailing wage requirements posed by contractors or subcontractors and the duration of the contract or subcontract. The Borrower must conduct more frequent interviews if the initial interviews or other information indicated that there is a risk that the contractor or subcontractor is not complying with Davis-Bacon prevailing wages. The Borrower shall immediately conduct interviews in response to an alleged violation of the prevailing wage requirements. All interviews shall be conducted in confidence.
- (iii) Interview Spot Checks. The Borrower shall periodically conduct spot checks of a representative sample of weekly payroll data to verify that contractors or subcontractors are paying the appropriate wage rates. The Borrower shall establish and follow a spot check schedule based on its assessment of the risks of noncompliance with Davis-Bacon prevailing wages posed by contractors or subcontractors and the duration of the contract or subcontract. The Borrower must conduct more frequent spot checks if the initial spot check or other information indicates that there is a risk that the contractor or subcontractor is not complying with Davis-Bacon prevailing wage. In addition, during the examinations the Borrower shall verify evidence of fringe benefit plans and payments thereunder by contractors and subcontractors who claim credit for fringe benefit contributions.
- (iv) Review of Apprentices and Trainees. The Borrower shall periodically review contractor's and subcontractor's use of apprentices and trainees to verify registration and certification with respect to apprenticeship and training programs approved by either the Department of Labor, or a state, as appropriate, and that contractors and subcontractors are not using disproportionate numbers of, laborers, trainees and apprentices. These reviews shall be conducted in accordance with the schedules for spot checks and interviews described in Section 2.10(o)(5)(ii through iii) of this Loan Agreement.

(6) Potential Violations. The Borrower must immediately report potential violations of the Davis-Bacon prevailing wage requirements to the NDEE, EPA, and to the appropriate Department of Labor Wage and Hour District Office listed at <https://www.dol.gov/agencies/whd/contact/local-offices>.

(p) Human Trafficking. Under the requirements of Section 106 of the Trafficking Victims Protection Act of 2000, as amended, the following provisions apply to this award:

"The Municipality, its employees, sub-recipients under this award, and sub-recipients' employees may not engage in severe forms of trafficking in persons during the period of time that the award is in effect; procure a commercial sex act during the period of time that the award is in effect; or use forced labor in the performance of the award or sub-awards under the award."

- (q) American Iron and Steel (AIS) Products. Use of Loan funds for partial or full payment of the construction, alteration, maintenance, and repair of "Public Water Systems", as defined by the Federal Act, must be constructed pursuant to Public Law 113-76, et seq., as amended, which includes American Iron and Steel Act (AIS) requirements. The Borrower agrees to be responsible for and to comply with all American Iron and Steel conditions and requirements pursuant to the American Iron and Steel Act and agrees to provide written certification of such compliance to the NDEE after construction completion.
- (r) State Cybersecurity. If the Borrower's network or information system is connected to EPA networks for the purpose of transferring data using systems other than the Environmental Information Exchange Network, or EPA's Central Data Exchange, the Borrower agrees that when collecting and managing environmental data for this Project, the Borrower will protect the data by following all applicable state law cybersecurity requirements. Prior to collecting, managing, or transferring any environmental data, the Borrower agrees to contact the EPA and the assigned EPA Project Officer, notifying the NDEE when they have done so, and work with the EPA to ensure that any connections between the Borrower's network or information system and EPA networks used by the Borrower to transfer data under this Loan Agreement are secure.
- (s) Loan Finalization Date. This Loan Agreement will be considered finalized either upon the date the NDEE processes the final disbursement request by the Borrower or twelve (12) months following receipt of the written notification of the construction completion pursuant to Section 2.10(d) of this Loan Agreement, whichever occurs first.
- (t) Build America Buy America. Use of Loan funds for partial or full payment of the construction, alteration, maintenance, and repair of Public Water Systems, as defined by the Federal Act, must be constructed pursuant to Public Law 117-58, 135 Stat. 429, 70901-70927, et seq., as amended, which includes Build America Buy America Act (hereinafter BABA) requirements. The Borrower agrees to be responsible for and to comply with all BABA conditions and requirements pursuant to the BABA Act and agrees to provide written certification of such compliance to the NDEE, or any party designated by the NDEE, after construction completion unless i) the Borrower has requested and obtained a waiver from the NDEE, or any party designated by the NDEE, pertaining to the Project or the Project is otherwise covered by a general applicability waiver; or ii) all contributing Agencies to the Project that require BABA compliance have advised the Borrower in writing that BABA requirements are not applicable to the Project.

When applicable (e.g., unless eligible for a waiver, etc.), all of the iron, steel, manufactured products, and construction materials used in the project are produced in the United States per the following:

- (1) All iron and steel used in the project are produced in the United States. This means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.
- (2) All manufactured products used in the project are produced in the United States. This means the manufactured product was manufactured in the United States, and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55% of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation.
- (3) All construction materials are manufactured in the United States. This means that all manufacturing processes for the construction material occurred in the United States.

The Borrower agrees to comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the NDEE, the EPA, or any party designated by the NDEE or EPA, such as performance indicators of program deliverables, information on costs and project progress. The Borrower understands that: i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities; and ii) failure to comply with the applicable legal



requirements and this Loan Agreement may result in a default hereunder subject to the conditions pursuant to Article V of this Loan Agreement and other remedial actions.

The BABA requirements do not supersede the American Iron and Steel requirement and both provisions still apply and work in conjunction.

- (u) Federal Flood Risk Management Standard (FFRMS). For the project noted in Exhibit 1, it must be at or above (i) the elevation and flood hazard area that result from using a climate-informed science approach that uses the best-available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science. This approach will also include an emphasis on whether the action is a critical action as one of the factors to be considered when conducting the analysis; (ii) the elevation and flood hazard area that result from using the freeboard value, reached by adding an additional 2 feet to the base flood elevation for non-critical actions and by adding an additional three (3) feet to the base flood elevation for critical actions; (iii) the area subject to flooding by the 0.2% annual chance flood; or (iv) the elevation and flood hazard area that result from using any other method identified in an update to the FFRMS.

This does not apply if the project is not a substantial improvement (i.e. projects worth more than 50% of the market value or replacement costs of the facility), based on an NDEE approved opinion submitted by a licensed professional engineer per Section 2.10(a) of this Loan Agreement.

- (v) Lead Service Lines. Use of funds for lead service lines shall be eligible pursuant to the Infrastructure Investment and Jobs Act (Public Law No. 117-58) and the Federal Act. In addition, the Borrower agrees to the following:
- (1) The project and use of funds will be for lead service line replacement projects and associated activities directly connected to the identification, planning, design, and replacement of lead service lines. Costs associated with non-lead service lines are ineligible; and
  - (2) Lead service lines will be replaced in their entirety and cannot be partially replaced, unless a portion of the line has already been replaced or is concurrently being replaced with another funding source; and
  - (3) The Borrower agrees to provide documentation established by the Department of compliance with full lead line service replacement to the Department for review and approval at the time lead service line replacement project is initiated.
- (w) Lead Service Line Inventory. The Borrower shall submit a final Lead Service Inventory, per the requirements of the Federal Act, to and receive acceptance from the Monitoring & Compliance Section at NDEE, by October 16, 2024, or before disbursements exceed 95% of the Project Costs, whichever comes first. The disbursement of all funds is contingent upon the Borrower performing all needed activities for the identification, planning and design of a Lead Service Line Inventory per the requirements of the Federal Act.
- (x) Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment. The Borrower agrees to comply with the regulations of 2 CFR 200.216, *Prohibition on certain telecommunication and video surveillance services or equipment*, and section 889 of Public Law 115-232. The Borrower shall prohibit procuring (enter into, extend, or renew contracts) or obtaining equipment, systems, or services that use "covered telecommunications equipment or services" identified in the regulations as specified by this section as a substantial or essential component of any system, or as critical technology as part of any system for the Project. This prohibition extends to Borrowers and their subrecipients (i.e. Consulting Engineers, contractors, etc.) that "uses any equipment, system, or service that uses covered telecommunications equipment or services" as a substantial or essential component of any system, or as critical technology as part of any system. Certain equipment, systems, or services, including equipment, systems, or services produced or provided by entities subject to the prohibition are recorded in the System for Award Management exclusion list (<https://sam.gov/content/exclusions>).

## ARTICLE III

### **REPRESENTATION AND COVENANTS OF THE BORROWER**

**Section 3.01. Representations of the Borrower.** The Borrower represents as follows:

(a) Organization and Authority.

- (1) The Borrower is a village, town, city, district, association, or other public body created by or pursuant to the constitution and statutes of the State of Nebraska.
- (2) The Borrower has full legal right and authority and has all necessary licenses and permits required as of the date hereof (or is in the process of obtaining all necessary licenses and permits that will be required, but are not required to be in place as of the date hereof) to own, operate and maintain the System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Loan Agreement.
- (3) The proceedings of the Borrower's governing body conducted to approve this Loan Agreement and authorizing its execution, issuance, and delivery on behalf of the Borrower, and authorizing the Borrower to undertake and complete the Project, have been duly and lawfully convened and conducted and the resolution of the Borrower's governing body approving such matters has been duly and lawfully adopted.
- (4) This Loan Agreement has been duly authorized, executed, and delivered on behalf of the Borrower, and constitutes the legal, valid, and binding obligation of the Borrower enforceable against the Borrower in accordance with its terms.

(b) Full Disclosure. To the best knowledge of the Borrower, there is no fact that the Borrower has not disclosed to the NDEE in writing on the Borrower's application for the Loan or otherwise anything that materially adversely affects or that will materially adversely affect the properties, activities of the System, or the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreement under this Loan Agreement.

(c) Non-Litigation. There is no controversy, suit or other proceeding of any kind pending, or to the best knowledge of the Borrower, threatened questioning, disputing or affecting in any way the: (i) legal organization of the Borrower or its boundaries; (ii) the right or title of any of its officers to their respective offices; (iii) the legality of any official act taken in connection with obtaining the Loan; (iv) the constitutionality or validity of the indebtedness represented by the Loan Agreement; (v) any of the proceedings had in relation to the authorization or execution or the pledging of the revenues stated in Section 2.09 and Section 3.02 of this Loan Agreement; or (vi) the ability of the Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(d) Compliance with Existing Laws and Agreements. The authorization, execution and delivery of this Loan Agreement by the Borrower, and the performance by the Borrower of its duties, covenants, obligations, and agreements thereunder will not result in any breach of any existing law or agreement to which the Borrower is a party.

(e) No Defaults. No event has occurred and no condition exists that would constitute an Event of Default. The Borrower is not in violation of any agreement which would materially adversely affect the ability of the Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement.

- (f) Governmental Consent. The Borrower has obtained all permits and approvals required to date under this Loan Agreement (or is in the process of obtaining all permits and approvals that will be required, but are not required to be in place as of the date hereof) for the undertaking or completion of the Project and the financing or refinancing thereof. The Borrower has complied with, or expects to comply with, all applicable provisions of law requiring any notification, with any governmental body or officer in connection with this Loan Agreement or with the undertaking or completion of the Project and the financing or refinancing thereof.
- (g) Compliance with the Law. The Borrower:
- (1) Is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, including, without limitation, any public hearing or public notice requirements or environmental review requirements contained in the Regulations, with which the failure to comply would materially adversely affect the ability of the Borrower to conduct its activities, enter into this Loan Agreement or undertake or complete the Project; and
  - (2) Has obtained, or expects to obtain, all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property which, if not obtained, would materially adversely affect the ability of the Borrower to complete the Project.
- (h) Use of Loan Proceeds. The Borrower will apply the proceeds of the Loan as described in Article II of this Loan Agreement:
- (1) To finance or refinance a portion of the Project Costs; and
  - (2) Where applicable, to reimburse the Borrower for a portion of the Project Costs, which portion was paid or incurred in anticipation of reimbursement by the NDEE and is eligible for such reimbursement pursuant to the Regulations. All of such costs constitute Project Costs for which the NDEE is authorized to make loans to the Borrower pursuant to the Act and the Regulations.
- (i) Project Costs. The Borrower certifies that the Project Costs, as listed in Attachment B, are reasonable and accurate estimations and, upon direction of the NDEE, will supply the same with a certificate from its engineer stating that such costs are reasonable and accurate estimations, taking into account investment income, if any, to be realized during the course of construction of the Project and other money that would, absent the Loan, have been used to pay the Project Costs.

**Section 3.02. Particular Covenants of the Borrower.**

- (a) Dedicated Source of Revenue for Repayment of the Loan. The Borrower hereby pledges to the NDEE, and grants a lien to the NDEE on, the Net Revenues as the dedicated source of revenue for the repayment of the Loan. The pledge herein provided for is made in accordance with and under the terms of the Bond Resolution and is secured on a parity with the pledge made thereunder. The Borrower shall fix, establish, maintain and collect such rates, fees, and charges for the use and services furnished by or through the Borrower's System including all improvements and additions hereafter constructed or acquired by the Borrower, as will provide revenues sufficient to (i) pay the cost of the operation and maintenance, and replacement of the System, (ii) pay at least 110% of the principal of and interest on the Loan as and when the same become due, and (iii) pay all other amounts due at any time under this Loan Agreement. The lien of the NDEE on the Net Revenues, shall be on a parity with the lien on such revenues of the Borrower's outstanding Revenue Obligations issued pursuant to the Bond Resolution, of the Borrower's now outstanding and any additional revenue bonds or other revenue bonds hereafter issued on parity with such outstanding Revenue Obligations. The Borrower hereby expressly reserves the right to issue Revenue Obligations on parity with the lien described in this Loan Agreement and the other outstanding Revenue Obligations, provided, the Borrower complies with the covenants contained in this Subsection 3.02(a). These revenues shall be collected and maintained in separate accounts or ledgers for the operation and maintenance costs and for principal and interest payments on the Loan. The funds

in such accounts or ledgers shall be restricted for their intended use, and the Loan obligation shall be reported on the financial statements of the Borrower. The Borrower agrees to develop a User Charge System based on actual or estimated use of System's services, providing that each user or user class pay its proportionate share of operation and maintenance (including replacement) costs within the Borrower's service area, based on each users demand or potential demand for service and to conduct at least a biennial review of adequacy of the user charge rates. The Borrower agrees the initial financial analysis performed by the NDEE in Attachment C is a reasonable estimate of the Project Costs, of the financial condition of the Borrower in relation to this Project, and of the user charges necessary at the time of initiation of operation of the Project. The NDEE may review this information annually to ensure the Borrower's compliance with the Loan conditions and update Attachment C to reflect any changes.

(b) Performance Under Loan Agreement. The Borrower agrees:

- (1) They are in compliance with the following federal regulations and will be subject to:
  - i. Civil Rights Act of 1964, 42. U.S.C. 2000d, et seq., as amended;
  - ii. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, et seq., as amended; and
  - iii. Age Discrimination Act of 1975, 42 U.S.C. 6102, et seq., as amended.
- (2) To comply with all applicable State and federal laws, rules, and regulations in the performance of this Loan Agreement (including, but not limited to the federal crosscutting items set forth on Attachment D of this Loan Agreement, and other NDEE Regulations); and
- (3) To cooperate with the NDEE in the observance and performance of the respective duties, covenants, obligations, and agreements of the Borrower and the NDEE under this Loan Agreement.

(c) Completion of Project and Provision of Moneys Therefore. The Borrower agrees:

- (1) To exercise its best efforts in accordance with prudent public water supply utility practice to complete the Project and to so accomplish such completion on or before the estimated Project completion date set forth in Article II hereto; and
- (2) To provide from its own financial resources all moneys, in excess of the total amount of proceeds it receives pursuant to this Loan Agreement, required to complete the Project.
- (3) At the completion of the Work (e.g., the LSL Replacement at a Residential Property, etc.), the City and/or its Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration in the use of the loan funds.

(d) Delivery of Documents. Concurrently with the delivery of this Loan Agreement (as previously authorized and executed) at the loan closing, the Borrower will cause to be delivered to the NDEE each of the following items:

- (1) Counterparts of this Loan Agreement (as previously executed by parties hereto);
- (2) Copies of the ordinances and/or resolutions of the governing body of the Borrower authorizing the execution and delivery of this Loan Agreement certified by an Authorized Representative;
- (3) An Opinion of the Borrower's Counsel substantially in the form of Attachment E hereto;

- (4) An executed Note (or other evidence of indebtedness) evidencing the Borrower's obligations under this Loan Agreement in the form of Attachment F;
  - (5) An executed certificate of the Borrower in the form of Attachment G hereto; and
  - (6) Such other certificates, documents, opinions, and information as the NDEE may require.
- (e) Operation and Maintenance of Public Water System. The Borrower agrees that it shall operate in accordance with Nebraska Administrative Code, Title 179 – Public Water Systems, Chapter 22, and ensure the following:
- (1) At all times operate the properties of the System in an efficient manner; and
  - (2) Maintain the System, making all necessary and proper repairs, renewals, replacements, additions, betterments, and improvements necessary to maintain its system in good repair, working order and operating condition.
- (f) Disposition of System. The Borrower covenants that it intends to own and operate the System at all times during the term of the Loan. The Borrower does not know of any reason why the System will not be so used in the absence of:
- (1) Supervening circumstances not anticipated by the Borrower at the time of the Loan;
  - (2) Adverse circumstances beyond the control of the Borrower; or;
  - (3) Obsolescence of such insubstantial parts or portions of the System as may occur as a result of normal use thereof.

The Borrower shall not sell, lease, abandon or otherwise dispose of all or substantially all of its Public Water System except on 90 days' prior written notice to the NDEE and, in any event, shall not sell, lease, abandon or otherwise dispose of the same unless the Borrower shall in accordance with Section 4.02 hereof assign this Loan Agreement and its rights and interests hereunder to the purchaser or lessee of the System and such purchaser or lessee shall assume all duties, covenants, obligations and agreements of the Borrower under this Loan Agreement. In no event shall the Borrower sell, lease, abandon, or otherwise dispose of the System to any person or entity other than a municipal corporation or other political subdivision of the State of Nebraska, or any combination thereof, that has legal authority to own or operate the System.

Before any proposed disposition of the System of which the Project constitutes a part can be made, the Borrower shall provide the NDEE, and NIFA if NIFA is an assignee of the Note, with an opinion of a nationally recognized bond counsel that such proposed disposition is permitted by the provisions of this subparagraph, and, further, that such disposition shall not endanger the exclusion from gross income for federal income tax purposes of the interest on any bonds issued to fund deposits into the Loan Fund, nor shall it relieve the Borrower of its duties, covenants, obligations and agreements under this Loan Agreement.

- (g) Records and Accounts. The Borrower shall maintain accurate records and accounts in accordance with generally accepted accounting principles, including principles relating to the reporting of infrastructure assets for the System's Records (the "System Records"), which shall be separate and distinct from its other records and accounts (the "General Account"). The System Records and General Accounts shall be made available for inspection upon request by the NDEE at any reasonable time. The Borrower shall, upon written request by the NDEE during the term of the Loan, engage an independent auditor to conduct an audit of the project's financial records in accordance with generally accepted government auditing standards. The Borrower shall provide the NDEE a copy of the audit report, provided such audit shall not be due to the NDEE sooner than 210 days following the close of the fiscal year, or years, identified in the

request for audit. In the event that during the period in which the Project financed by this Loan Agreement is under construction, and the Borrower expends, for any purpose, total federal funds in excess of seven hundred fifty thousand dollars (\$750,000) during the Borrower's fiscal year, then the Borrower shall, irrespective of any request from the NDEE, provide the NDEE a copy of the Single Audit made on the Borrower's General Accounts performed by an independent auditor required in such cases by 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In the sole discretion of the NDEE, any requirement herein to perform and/or provide an audit at the request of the NDEE may be waived by the NDEE on the basis of the Borrower's receipt of an audit waiver received from some other government agency and accurately acknowledging the Borrower's obligation to the NDEE under this Loan or for any other reason acceptable to the NDEE.

- (h) Inspections; Information. The Borrower shall permit the EPA, the NDEE, and any party designated by the NDEE to examine, visit, and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books, and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments, and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the EPA and the NDEE may reasonably require in connection therewith.
- (i) Financial Information. The Borrower specifically agrees to provide to the NDEE a reasonable number of copies of such financial information and operating data of the Borrower and the Public Water System and the prompt notification of the occurrence of certain material events, to the extent necessary for the NDEE to comply with its continuing disclosure obligations set forth in the SEC Rule. Such financial information shall be prepared in accordance with GAAP. Such financial information and operating data, if requested, shall be supplied within 210 days after the end of its fiscal year. If audited financial information will be prepared, but is not available within 210 days of the end of the appropriate Borrower's fiscal year, unaudited financial information shall be provided to the NDEE pending receipt of audited financial information. For purposes of this paragraph, "material event" shall mean:
  - (1) Principal and interest payment delinquencies on any Indebtedness;
  - (2) Non payment related defaults in agreements authorizing any Indebtedness;
  - (3) Rating changes on any Indebtedness;
  - (4) Adverse tax opinions or events affecting the tax exempt status of any Indebtedness; or
  - (5) Unscheduled draws on debt service reserves or credit enhancements on any Indebtedness reflecting financial difficulties.
- (j) Insurance. The Borrower will carry and maintain such reasonable amount of all risk insurance on all properties and all operations of the System as would be carried by similar sized municipal operators of Public Water System, insofar as the properties are of an insurable nature. The Borrower also will carry general liability insurance in amounts not less than the maximum liability of a governmental entity for claims arising out of a single occurrence, as provided by the Nebraska Political Subdivisions Tort Claims Act (Neb. Rev. Stat. §§13-901 to 13-928), or other similar future law. Any of the foregoing may be met by self insurance.
- (k) Continuing Representations. The representations of the Borrower contained herein shall be true at the time of the execution of this Loan Agreement and at all times during the term of this Loan Agreement.
- (l) Notice of Material Adverse Change. The Borrower shall promptly notify the NDEE of any material adverse change in the activities, prospects, or condition (financial or otherwise) of the Borrower's Public Water System, in accordance with the provisions of Sections 3.02(g) and 3.02(i) of this Loan Agreement, or in the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

- (m) Additional Covenants and Requirements. If necessary in connection with the making of the Loan Agreement, additional covenants and requirements, if any, are hereby incorporated with their inclusion to Attachment H, Other Documents.

## **ARTICLE IV**

### **ASSIGNMENT**

**Section 4.01. Assignment and Transfer by the NDEE**. The Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the NDEE deems necessary in connection with the operation and administration of the Fund. The Borrower hereby specifically approves the assignment and pledging of the interest portion of the Loan Repayments to NIFA.

**Section 4.02. Assignment by the Borrower**. This Loan Agreement may not be assigned by the Borrower for any reason, unless the following conditions shall be satisfied:

- (a) The NDEE shall have approved said assignment in writing;
- (b) The assignee is a village, town, city, district, association, county, or other public body created by or pursuant to State law of the State of Nebraska or any combination thereof, that has legal authority to own or operate the System;
- (c) The assignee shall have expressly assumed in writing the full and faithful observance and performance of the Borrower's duties, covenants, and obligations under this Loan Agreement; provided, however, such assignment shall not relieve the Borrower of its duties, covenants, and obligations under this Loan Agreement;
- (d) The assignment will not adversely impact the NDEE's ability to meet its duties, covenants and obligations under any Pledge Agreement as determined in writing by the NDEE;
- (e) The assignment will not adversely affect the exclusion from gross income for federal tax purposes of the interest on any bonds issued by NIFA to fund deposits into the Loan Fund; and
- (f) The Borrower shall provide the NDEE, and NIFA if NIFA is an assignee of the Note, with:
  - (1) An opinion of a qualified attorney satisfactory to the NDEE that each of the conditions set forth in subparagraphs Section 4.02(b) and (c) above has been met; and
  - (2) An opinion of nationally recognized bond counsel satisfactory to the NDEE that the condition set forth in subparagraph Section 4.02(e) above has been met.

## **ARTICLE V**

### **EVENTS OF DEFAULT AND NONCOMPLIANCE**

**Section 5.01. Event of Default**. Event of Default means: (i) any violation or noncompliance by the Borrower of any of the material provisions of this Loan Agreement; (ii) material violation or noncompliance by the Borrower of any provision of federal, state, or local regulations or requirements; (iii) failure by the Borrower to pay when due any Loan Payment pursuant to Section 2.06 of this Loan Agreement and for such payment to be considered delinquent by the NDEE; and (iv) a material default under the terms of any Revenue Obligation and other parity obligation allowing any holder of such obligation the right to exercise any remedies against the Borrower.

**Section 5.02. Notice of Default**.

- (a) If an Event of Default shall occur and is discovered by the Borrower, the Borrower shall give the NDEE prompt telephonic notice of the Event of Default. Such telephonic notice shall be immediately followed by written notice of such Event of Default given in the manner as established by Section 6.03 of this Loan Agreement.
- (b) If an Event of Default shall occur and is discovered by the NDEE, the NDEE shall give the Borrower and the NIFA prompt telephonic notice of the occurrence of such Event of Default. Such telephonic notice shall be immediately followed by written notice from the NDEE to the Borrower of such Event of Default given in the manner as established by Section 6.03 of this Loan Agreement.

**Section 5.03. Remedies on Default.**

- (a) Whenever an Event of Default shall have occurred and be continuing, the NDEE or the Borrower shall have the right to take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and to become due or to enforce the performance and observance of any obligation or agreement of the Borrower (including, without limitation, withholding remaining Loan disbursements, cancellation of this Loan Agreement and acceleration of the remaining scheduled principal payments set forth on Attachment A, or such other remedies provided to the NDEE in the Act and the Regulations).
- (b) If the Borrower fails to make any payment of principal and interest, administrative fee, late fee, or penalty interest imposed pursuant to this Loan Agreement within 60 days of the due dates specified in Section 2.06 of this Agreement, the payment shall be deducted from the amount of aid to municipalities to which the Borrower is entitled under Neb. Rev. Stat. §72-1503. Such amount shall be paid directly to the Fund.

**Section 5.04. Expenses.** Upon the occurrence of an Event of Default, and to the extent permitted by law, the Borrower shall, on demand, pay to the NDEE the reasonable fees and expenses incurred by the NDEE in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of performance or observation of any other duties, covenants, obligations, or agreements of the Borrower contained herein. Upon request by the Borrower, the NDEE shall provide copies of statements evidencing the fees and expenses for which the NDEE is requesting payment.

**Section 5.05. Application of Moneys.** Any moneys collected by the NDEE pursuant to Section 5.03 or 5.04 hereof shall be applied;

- (a) First, to pay administrative fees on the Loan as the same becomes due and payable;
- (b) Second, to pay interest on the Loan as the same becomes due and payable;
- (c) Third, to pay principal due and payable on the Loan;
- (d) Fourth, to pay expenses owed by the Borrower pursuant to Section 5.04 hereof; and
- (e) Fifth, to pay any other amounts due and payable hereunder as such amounts become due and payable. To the extent that the NDEE's right to receive Loan Repayments is on a parity of lien basis with the lien of Existing Revenue Obligations or Additional Revenue Obligations on the Net Revenues, such moneys shall be applied pro rata to all such obligations.

**Section 5.06. No Remedy Exclusive; Waiver; Notice.** No remedy herein conferred upon or reserved to the parties hereto is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. The parties hereto, in good faith, shall exercise such remedies with due diligence in a timely manner, however, no delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the parties hereto to exercise any



remedy reserved to them in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

**Section 5.07. Retention of Rights.** Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the parties hereto shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the defaulting party at law or in equity, as such party may, in its discretion, deem necessary to enforce the obligations of the defaulting party pursuant to this Loan Agreement.

**Section 5.08. Violation of Loan Agreement Provisions.** Violation or noncompliance of any of the provisions of this Loan Agreement by the Borrower, or failure of the Borrower to complete and maintain the Project in the manner proposed by the Borrower, and approved by the NDEE may result in a cancellation of this Loan Agreement, and a demand that any outstanding balance of principal, interest, and administrative fees and any other amounts due under this Loan Agreement be paid immediately.

## **ARTICLE VI**

### **MISCELLANEOUS**

**Section 6.01. Hold Harmless Agreement.** The State of Nebraska and the NDEE, and the officers, agents, and employees of each, shall have no responsibility or liability for the construction, operation and maintenance of the Project. The Borrower shall be responsible for such construction, operation and maintenance of the Project and shall assume responsibility for all Project Costs and any claims, demands, damages, losses, costs, expenses, or liability accruing or resulting to any and all contractors, subcontractors, employees, and any other person, firm, or corporation furnishing or supplying services, materials, or supplies in connection with construction of the Project, and for any and all claims, demands, damages, losses, costs, expenses, or liability occurring or resulting to any person, firm or corporation, as a result of or incident to, either in whole or in part, whether directly or indirectly, the construction, or the operation of the Project.

**Section 6.02. Waivers.** Any waiver at any time of rights or duties under this Loan Agreement shall not be deemed to be a waiver of any subsequent right or duty under this Loan Agreement.

**Section 6.03. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered or mailed by registered or certified mail, postage prepaid, to the Borrower and the NDEE at the following addresses:

(a) BORROWER

Metropolitan Utilities District of Omaha  
C/O Senior Vice President and CFO  
7350 World Communications Drive  
Omaha, NE 68122-4041  
Phone: (402) 504-6666

(b) NDEE

Department of Environment and Energy  
P.O. Box 98922  
Lincoln, NE 68509-8922  
Phone: (402) 471-2186

All notices given by registered or certified mail as aforesaid shall be deemed duly given as of the date they are so mailed. Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

**Section 6.04. Amendments, Supplements and Modifications.** This Loan Agreement may not be amended, supplemented, or modified except in writing signed by the NDEE and the Borrower.

**Section 6.05. Severability.** In the event any provision of this Loan Agreement shall be held illegal, invalid, or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

**Section 6.06. Binding Effect.** This Loan Agreement shall inure to the benefit of and shall be binding upon the NDEE and the Borrower and their permitted respective successors and assigns.

**Section 6.07. Execution in Counterparts.** This Loan Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**Section 6.08. Governing Law and Regulations.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska, including the Act and the Regulations which are, by this reference thereto, incorporated herein as a part of this Loan Agreement.

**Section 6.09. Consents and Approvals.** Whenever the written consent or approval of the State shall be required under the provisions of this Loan Agreement, such consent or approval may only be given by the NDEE.

**Section 6.10. Further Assurances.** The Borrower shall, at the request of the NDEE, authorize, execute, acknowledge, and deliver such further resolutions, conveyances, transfers, assurances, financing statements, and other instruments as may be necessary or desirable for better assuring, conveying, granting, assigning, and confirming the rights, security interests and agreements granted or intended to be granted by this Loan Agreement.

**Section 6.11. Notice to Trustee.** Upon assignment of the Note to NIFA which may occur from time to time and thereafter, the NDEE shall deliver a notice of this Loan in the form prescribed by NIFA, and other pertinent information relating thereto, to the Trustee for any bonds of NIFA issued to fund deposits into the Fund.

**Section 6.12. Finalizing, Closing, and Termination of the Loan Agreement.** The NDEE reserves the right to finalize and close, or terminate this Loan Agreement for material violations of federal and state requirements at any point during the term of the loan. Before any action is taken, the NDEE shall give no less than 90 days written notice of the NDEE's intent to the Borrower. Following the final disbursement of Loan proceeds to the Borrower, the NDEE shall revise Attachment A. Such revised Attachment A shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace Attachment A.

**Section 6.13. Separate Eligibility.** At the sole determination of the NDEE, the Borrower will be eligible for a separate loan agreement at a 0% interest rate for an amount not exceeding the principal repayment total in Attachment A and the subsequent provisions of Section 2.01 of this loan agreement. The determination will only be permitted during the bypass funding period of the DWSRF program, when the NDEE can determine that an adequate program cash balance is maintained. This separate loan agreement can only be used for a project that categorically meets the DWSRF eligibilities in the State of Nebraska.

**Section 6.14. Electronic Signature.** The NDEE and the Borrower hereby approve the usage of electronic signatures pursuant to Neb. Rev. Stat. §86-611 and Nebraska Administrative Code, Title 437, Digital Signatures Act.

- (a) Attachment F – Promissory Note of the METROPOLITAN UTILITIES DISTRICT OF OMAHA of this Loan Agreement may not be electronically signed and must be signed physically by the authorized signatories. The Borrower agrees that prior to electronically signing this Loan Agreement, Attachment F has been physically signed and provided to the NDEE.

**Section 6.14. Effective Date.** This Loan Agreement shall become effective upon the latter date of the following two signatures:

IN WITNESS THEREOF, the parties hereto have caused this Loan Agreement to be executed and delivered as of the date set forth below.

METROPOLITAN UTILITIES DISTRICT OF  
OMAHA, NEBRASKA

NEBRASKA DEPARTMENT OF  
ENVIRONMENT AND ENERGY

By \_\_\_\_\_  
(printed name)

By \_\_\_\_\_  
(printed name)

**DRAFT: PLEASE DO NOT SIGN THIS SECTION. THIS SECTION WILL BE SIGNED ELECTRONICALLY THROUGH DOCUSIGN.**

(signature) \_\_\_\_\_ (signature) \_\_\_\_\_

Title \_\_\_\_\_ President \_\_\_\_\_ Title \_\_\_\_\_ Director \_\_\_\_\_

Date \_\_\_\_\_ Date \_\_\_\_\_

## INDEX OF ATTACHMENTS

Exhibit 1 -	Project Description
Attachment A -	Loan Repayment Schedule
Attachment B -	Project Costs and Projected Outlay Schedule
Attachment C -	Financial Analysis
Attachment D -	List of Federal Laws and Authorities
Attachment E -	Borrower's Counsel's Opinion
Attachment F -	Promissory Note
Attachment G -	Certificate
Attachment H -	Additional Documents

## **EXHIBIT 1**

### **PROJECT DESCRIPTION**

The DWSRF will serve as the primary source of funding for the replacement of lead water services within M.U.D's service territory, and may also include mechanical inventory efforts (e.g., potholing, hydro-vacuum excavations, service line resistivity testing, etc.). The project includes all related work, land testing, construction change orders, and engineering fees.

## ATTACHMENT A

### LOAN REPAYMENT SCHEDULE

Payments are due on June 15 and December 15 of each year. Interest and Administrative fees shall accrue at the applicable rate as established by Section 2.03 and Section 2.04 of this Loan Agreement and repayments of such accrued interest and administrative fees will be repaid after the effective date of this Loan Agreement. A commencement of principal repayment is estimated to start on December 15, 2026 (as established by Section 2.02 of this Loan Agreement wherein repayment must begin within one (1) year from the date of Initiation of Operation, but no later than three (3) years from the date of the Loan, whichever occurs first).

Amounts due will be invoiced on or about May 15 and November 15 of each year for each six-month payment period ending on the set interest payment date. Interest and Administrative fee accruing on principal amounts drawn after the invoicing date are to be included with the next invoice.

The Amortization Schedule included in Attachment A is a projected schedule based upon estimated principal repayment start and full distribution of funds and is subject to change pending date of Initiation of Operation and final principal amount disbursed. Interest and Administrative fees accruing before the first principal repayment that is not reflected on the following draft amortization schedule will be billed and paid in accordance with the NDEE's procedures.

Following the receipt of Initiation of Operation date and the final disbursement of Loan proceeds to the Borrower, a revised final Attachment A shall be prepared by the NDEE to establish the final debt service schedule based upon the following parameters set forth below. Such revised final Attachment A thereafter shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace the projected Attachment A.

The final Loan Repayment Schedule shall be calculated by the NDEE based on the following parameters:

- (1) Final principal amount of Loan;
- (2) Amount of Loan Forgiveness, if any;
- (3) Interest rate as set forth in Section 2.03;
- (4) Administrative fee rate as set forth in Section 2.04;
- (5) Installments of principal, interest, and fees on each June 15 and December 15 payment date shall:
  - a. Begin no later than one year after the Initiation of Operation, or three years from the effective date of this Loan Agreement, whichever occurs first; and
  - b. End on the last repayment which must be paid no later than thirty (30) years from the date of either (i) one year after the Initiation of Operation, or (ii) three years from the effective date of this Loan agreement, whichever occurs first; and
- (6) Amortization of principal to achieve level payments of principal and interest (not taking into account the administrative fee payment pursuant to Section 2.04).

**ATTACHMENT A**

**PROJECTED AMORTIZATION SCHEDULE**

**TOTAL PRINCIPAL: \$ 11,200,000**      **INTEREST RATE (%): 0.00**  
**LOAN FORGIVENESS: \$ 28,800,000**      **ADMIN FEE (%): 0.00**  
**TOTAL SRF ASSISTANCE: \$ 40,000,000**      **TERM (YEARS): 30**

Principal Payment	Principal	Principal Payment	Interest	Admin Fee	Total Payment	Remaining Principal
12/15/2026	\$ 11,200,000.00	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 11,013,333.34
6/15/2027	\$ 11,013,333.34	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 10,826,666.68
12/15/2027	\$ 10,826,666.68	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 10,640,000.02
6/15/2028	\$ 10,640,000.02	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 10,453,333.36
12/15/2028	\$ 10,453,333.36	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 10,266,666.70
6/15/2029	\$ 10,266,666.70	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 10,080,000.04
12/15/2029	\$ 10,080,000.04	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 9,893,333.38
6/15/2030	\$ 9,893,333.38	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 9,706,666.72
12/15/2030	\$ 9,706,666.72	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 9,520,000.06
6/15/2031	\$ 9,520,000.06	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 9,333,333.40
12/15/2031	\$ 9,333,333.40	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 9,146,666.74
6/15/2032	\$ 9,146,666.74	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 8,960,000.08
12/15/2032	\$ 8,960,000.08	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 8,773,333.42
6/15/2033	\$ 8,773,333.42	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 8,586,666.76
12/15/2033	\$ 8,586,666.76	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 8,400,000.10
6/15/2034	\$ 8,400,000.10	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 8,213,333.44
12/15/2034	\$ 8,213,333.44	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 8,026,666.78
6/15/2035	\$ 8,026,666.78	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 7,840,000.12
12/15/2035	\$ 7,840,000.12	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 7,653,333.46
6/15/2036	\$ 7,653,333.46	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 7,466,666.80
12/15/2036	\$ 7,466,666.80	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 7,280,000.14
6/15/2037	\$ 7,280,000.14	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 7,093,333.48
12/15/2037	\$ 7,093,333.48	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 6,906,666.82
6/15/2038	\$ 6,906,666.82	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 6,720,000.16
12/15/2038	\$ 6,720,000.16	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 6,533,333.50
6/15/2039	\$ 6,533,333.50	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 6,346,666.84
12/15/2039	\$ 6,346,666.84	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 6,160,000.18
6/15/2040	\$ 6,160,000.18	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 5,973,333.52
12/15/2040	\$ 5,973,333.52	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 5,786,666.86
6/15/2041	\$ 5,786,666.86	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 5,600,000.20
12/15/2041	\$ 5,600,000.20	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 5,413,333.54
6/15/2042	\$ 5,413,333.54	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 5,226,666.88
12/15/2042	\$ 5,226,666.88	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 5,040,000.22
6/15/2043	\$ 5,040,000.22	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 4,853,333.56
12/15/2043	\$ 4,853,333.56	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 4,666,666.90
6/15/2044	\$ 4,666,666.90	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 4,480,000.24
12/15/2044	\$ 4,480,000.24	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 4,293,333.58
6/15/2045	\$ 4,293,333.58	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 4,106,666.92
12/15/2045	\$ 4,106,666.92	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 3,920,000.26
6/15/2046	\$ 3,920,000.26	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 3,733,333.60
12/15/2046	\$ 3,733,333.60	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 3,546,666.94
6/15/2047	\$ 3,546,666.94	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 3,360,000.28
12/15/2047	\$ 3,360,000.28	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 3,173,333.62
6/15/2048	\$ 3,173,333.62	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 2,986,666.96
12/15/2048	\$ 2,986,666.96	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 2,800,000.30
6/15/2049	\$ 2,800,000.30	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 2,613,333.64
12/15/2049	\$ 2,613,333.64	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 2,426,666.98
6/15/2050	\$ 2,426,666.98	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 2,240,000.32
12/15/2050	\$ 2,240,000.32	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 2,053,333.66
6/15/2051	\$ 2,053,333.66	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 1,866,667.00
12/15/2051	\$ 1,866,667.00	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 1,680,000.34
6/15/2052	\$ 1,680,000.34	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 1,493,333.68
12/15/2052	\$ 1,493,333.68	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 1,306,667.02
6/15/2053	\$ 1,306,667.02	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 1,120,000.36
12/15/2053	\$ 1,120,000.36	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 933,333.70
6/15/2054	\$ 933,333.70	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 746,667.04
12/15/2054	\$ 746,667.04	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 560,000.38
6/15/2055	\$ 560,000.38	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 373,333.72
12/15/2055	\$ 373,333.72	\$ 186,666.66	\$ -	\$ -	\$ 186,666.66	\$ 186,667.06
6/15/2056	\$ 186,667.06	\$ 186,667.06	\$ -	\$ -	\$ 186,667.06	\$ (0.00)
<b>TOTAL:</b>	<b>\$ 11,200,000</b>	<b>\$ 11,200,000</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 11,200,000.00</b>	

**ATTACHMENT B**

**PROJECT COSTS**

<b><u>COST CLASSIFICATION</u></b>	<b><u>ESTIMATED TOTAL COST</u></b>
1) Administrative and legal expenses	\$ 3,000,000
2) Land, structures, right-of-ways, appraisals, etc.	\$ -
3) Relocation expenses and payments	\$ -
4) Architectural and engineering fees	\$ 400,000
5) Project inspection fees	\$ 3,600,000
6) Site work, demolition and removal	\$ -
7) Construction (approx. 3,700 lead line at \$8,000/line)	\$ 30,000,000
8) Equipment	\$ -
9) Miscellaneous (id. of 4,000 unk. lines at \$750/line)	\$ 3,000,000
<b>10) SUBTOTAL (sum of lines 1-9)</b>	<b>\$ 40,000,000</b>
11) Contingencies	
<b>12) SUBTOTAL (sum of lines 10-11)</b>	<b>\$ 40,000,000</b>
Less project (program) income	
<b>TOTAL PROJECT COSTS (line 12 minus 13)</b>	<b>\$ 40,000,000</b>
<b><u>SOURCE OF FUNDS</u></b>	
LSLR DWSRF Loan (Principal)	\$ 11,200,000
LSLR DWSRF Loan Forgiveness	\$ 24,800,000
LSLR DWSRF Mechanical Inventory Grant	\$ 4,000,000
<b>TOTAL PROJECT ASSISTANCE</b>	<b>\$ 40,000,000</b>

*Funds shall be made only to owners of eligible systems for eligible projects pursuant to the Safe Drinking Water Act.*

**OUTLAY SCHEDULE**

	<b>2024</b>	<b>2025</b>	<b>2026</b>
	<b>ESTIMATED OUTLAY</b>	<b>ESTIMATED OUTLAY</b>	<b>ESTIMATED OUTLAY</b>
January	\$ 100,000.00	\$ 1,383,300.00	\$ 1,781,250.00
February	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
March	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
April	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
May	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
June	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
July	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
August	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
September	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
October	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
November	\$ 175,000.00	\$ 1,383,300.00	\$ 1,781,250.00
December	\$ 175,000.00	\$ 1,383,700.00	\$ 1,781,250.00
<b>ANNUAL TOTAL:</b>	<b>\$ 2,025,000</b>	<b>\$ 16,600,000</b>	<b>\$ 21,375,000</b>
<b>TOTAL OUTLAY:</b>	<b>\$</b>	<b>\$</b>	<b>40,000,000</b>



**ATTACHMENT C**

**FINANCIAL CAPABILITIES ANALYSIS**

Metropolitan Utilities District of Omaha (MUD) has requested DWSRF funding assistance of \$40,000,000 to finance the replacement of lead service lines and identification of service lines of unknown material. MUD is eligible for up to 62.0% DWSRF BIL Loan Forgiveness and 10% mechanical inventory forgiveness out of the SRF SFY 2024 IUP Program.

An abbreviated financial analysis is presented. The documents reviewed and used to complete this analysis are:

1. Audit reports of MUD, for the years 2020 through 2022;
2. Water/Wastewater Pre-application for Federal/State Assistance; and
3. Miscellaneous correspondence from MUD in project file.

**Analysis of the Water Utility:**

MUD manages and operates a combined utility and utilizes water user rates as their user charge system. Table 1 displays the MUD general gross profit of their revenue and expenses from the operation of their user charge system.

**Table 1  
Water User Charge System Summary**

Year	Revenue (includes investment income)	Expenses (excludes depreciation)	Gross Profit (Revenue minus Expenses)
2020	\$140,966,991	\$72,639,453	\$68,327,538
2021	\$143,263,180	\$73,412,805	\$69,850,375
2022	\$154,013,954	\$87,772,304	\$66,241,650

MUD manages their water system which generates revenue by assessing use fees on the residents and businesses in within MUD’s jurisdiction. The revenue stream goes towards paying for the operation and maintenance expenses incurred to operate the water utility. The revenues will be used to pay the debt service due to the proposed water utility loan. The water utility ran an operating surplus in 2020 through 2022, as shown in Table 1.

As of 9/30/2022, MUD as reported on the State of Nebraska’s Public Auditor’s website for years 2020-2022 has \$249,450,000 in outstanding water revenue bond debt and one SRF loan from NDEE with an outstanding loan balance of 2,746,700. The long-term liabilities for business-type activities are listed below.

1. As of September 30, 2022, MUD had a balance of \$24,140,000 on water revenue bonds originally issued in 2012, with an interest rate of 3.00 percent, and a final maturity in 2032.
2. As of September 30, 2022, MUD had a balance of \$130,185,000 on water revenue bonds originally issued in 2015, with an interest rate of 3.50 percent, and a final maturity in 2035.
3. As of September 30, 2022, MUD had a balance of \$32,040,000 on water revenue bonds originally issued in 2018, with an interest rate of 2.50 to 5.00 percent, and a final maturity in 2038.
4. As of September 30, 2022, MUD had a balance of \$63,085,000 on water revenue bonds originally issued in 2022, with an interest rate of 4.25 to 5.00 percent, and a final maturity in 2042.

5. MUD also has one outstanding DWSRF loan. DWSRF Loan D311498 is dated August 2009, with an original issue amount of \$6,886,837. The interest rate and administrative fee for this loan are 2.00 percent and 1.00 percent, respectively, with a final maturity on June 15, 2031. As of September 30, 2022, the outstanding balance for D311498 was \$2,746,700.

MUD is eligible for a 30-year DWSRF loan at a per annum interest rate of 0.00 percent plus an annual 0.00 percent administrative fee on the outstanding principal amount. The DWSRF offers loan funding assistance of \$40,000,000 minus \$24,800,000 in loan forgiveness and \$4,000,000 in mechanical inventory assistance for a principal amount of \$11,200,000. An annual debt service of \$373,333 plus the DWSRF contract required 10% coverage or \$37,333 for delinquency or loss of users, as shown in Table 2, totals \$410,667 for the first-year debt service, which includes the 10% coverage. Principal and Interest repayments of SRF loans are protected by intercept statute Neb. Rev. Stat. §75-1503, which allow the Department to recover delinquent loan payments by intercepting state funds that are paid to MUD.

**Table 2**  
**DWSRF Loan # D311693: \$40,000,000 Total Loan, less Loan Forgiveness**  
**of \$24,800,000 and Mechanical Inventory Forgiveness \$4,000,000 for a**  
**total Principal Loan of \$11,200,000.**

DWSRF Loan Term (Years)	Interest Rate	Admin Fee	Estimated First Year Payment	First Year Payment + 10% Coverage
30	0.00%	0.00%	\$373,333	\$410,667

The revenues from MUD’s water utility will be dedicated to repaying the loan. The number of users is estimated at 230,624 total connections. The current water user charge is a base charge of \$13.02 plus \$1.8242 per centum cubic feet used per month for residential customers. The estimated current monthly water bill for 5,000 gallons usage would be \$25.21. Based solely upon the projected users for the system, the user charges estimated to increase by \$0.15 per user, per month is recommended for proper debt coverage to service the SRF loan. The new average user rate is estimated to be \$25.36 per month, or \$304.35 annually. A final assessment of revenues and costs will be analyzed to determine the actual user charge adjustment as necessary.

The projected monthly water rate is \$25.36 per month, or \$304.35 annually. This projected household water rate total is 0.49% of the City of Omaha’s median household income of \$62,213 and is below EPA’s 2.5% upper level of water rate affordability.

## ATTACHMENT D

### LIST OF FEDERAL LAWS AND AUTHORITIES

#### ENVIRONMENTAL:

- Archeological and Historic Preservation Act of 1974, Pub. L. 93-291, 16 U.S.C. §469a-1
- Clean Air Act, PL 95-95, as amended, 42 U.S.C. 7506(c)
- Coastal Barrier Resources Act, PL 97-348, 96 Stat. 1653, 16 U.S.C. 3501 et seq.
- Coastal Zone Management Act of 1972, PL 92-583, as amended, 16 U.S.C. §1451 et seq.
- Endangered Species Act, PL 93-205, as amended, 16 U.S.C. 1531 et seq.
- Essential Fish Habitat Consultation Process Under the Magnuson-Stevens Fishery Conservation and Management Act, PL 94-265, as amended, 16 U.S.C. §1801 et seq.
- Executive Order 11988, Floodplain Management, as amended; Executive Order 12148, as amended
- Executive Order 11990, Protection of Wetlands, as amended; Executive Order 12608, as amended
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, as amended
- Farmland Protection Policy Act, PL 97-98, 7 U.S.C. §4201 et seq.
- National Environmental Policy Act, PL 91-190, 42 U.S.C. §4321 et seq.
- National Historic Preservation Act of 1966, PL 89-665, as amended, 16 U.S.C. §740 et seq.
- Safe Drinking Water Act, as amended, PL 92-523, as amended, 42 U.S.C. 300f et seq.
- U.S. Fish and Wildlife Service National Wetlands Inventory
- Wild and Scenic Rivers Act, PL 90-542, as amended, 82 Stat. 913, 16 U.S.C. §1271 et seq.

#### ECONOMIC:

- Demonstration Cities and Metropolitan Development Act of 1966, PL 89-754, as amended, 42 U.S.C. §3331 et seq.
- Executive Order 12549, Debarment and Suspension, as amended
- Executive Order 13202, as amended; Executive Order 13208, as amended
- Section 306 of the Clean Air Act and Section 508 of the Clean Water Act, including Executive Order 11738, Administration of the Clean Air Act and the Federal Water Pollution Control Act, with Respect to Federal Contracts, Grants, or Loans, as amended
- Uniform Relocation and Real Property Acquisition Policies Act of 1970, PL 91-646, as amended, 42 U.S.C. §§4601-4655

#### SOCIAL LEGISLATION:

- Age Discrimination Act of 1975, PL 94-135, 42 U.S.C. §6102
- Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, PL 102-389
- Executive Order 11246, Equal Employment Opportunity, as amended
- Executive Orders 11625, 12138, and 12432 Women's and Minority Business Enterprise, as amended
- Section 129 of the Small Business Administration Reauthorization and Amendment Act of 1988, PL 100-590
- Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794
- Section 13 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. §1251
- Title VI of the Civil Rights Act of 1964, PL 88-352, 42 U.S.C. §200d

#### MISCELLANEOUS AUTHORITY:

- Nebraska Drinking Water State Revolving Loan Fund #FS - 997805

*\*The list of Federal Laws and Authorities is based upon the EPA's listing of "Additional information on Cross-Cutting Federal Authorities" ([http://water.epa.gov/grants\\_funding/dwsrf/xcuts.cfm](http://water.epa.gov/grants_funding/dwsrf/xcuts.cfm)) and the EPA's "Cross-Cutting Federal Authorities: A Handbook on Their Application in the Clean Water and Drinking Water State Revolving Fund Programs" (October 2003; <https://www.epa.gov/sites/default/files/2015-08/documents/crosscutterhandbook.pdf>) as of October 12, 2015. This list is subject to change based upon the federal authorities of the EPA.*

**ATTACHMENT E**

**Form of Opinion of Borrower's Counsel**

**[USE BORROWER'S OR COUNSEL'S LETTERHEAD]**

**[Date]**

**[NOTE: Any of the opinions given below may be given in reliance upon the opinion of another Bond Counsel, and one Bond Counsel may give some of the opinions and another Bond Counsel may give others.]**

Nebraska Department of Environment and Energy  
Post Office Box 98922  
Lincoln, NE 68509-8922  
Attention: State Revolving Fund Program

The Metropolitan Utilities District of Omaha  
7350 World Communications Drive  
Omaha, NE 68122

Ladies and Gentlemen:

We have acted as **[Bond]** Counsel in connection with the execution and delivery by the Metropolitan Utilities District of Omaha (the "Borrower"), of an Agreement for Loan No. D311693 (the "Loan Agreement") between the Borrower and the Nebraska Department of Environment and Energy ("NDEE") and the issuance of a promissory note (the "Note") by the Borrower to the NDEE. All terms used in this opinion letter and not defined shall have the meanings given to them in the Loan Agreement.

In this connection, we have examined the following:

- (a) Certified copies of the **[Bond Resolution]**;
- (b) An executed counterpart of the Loan Agreement;
- (c) The executed Note; and
- (d) Such other documents as we deemed relevant and necessary in rendering this opinion.

As to questions of fact material to my opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon the foregoing we are of the opinion that:

1. The Borrower is a metropolitan utilities district duly organized and validly existing under the laws of the State of Nebraska.
2. The Borrower is a governmental unit, as such term is used in Section 141(b)(6) of the Internal Revenue Code of 1986, as amended.
3. The Borrower has the power and authority to enter into the Loan Agreement, to issue the Note, to borrow the entire principal amount provided for in Section 2.01 of the Loan Agreement (the "Principal Amount") and to perform its obligations under the Loan Agreement and the Note.
4. The Loan Agreement and the Note have been duly authorized, executed and delivered by the Borrower and are, and would be if the entire Principal Amount were advanced to the Borrower pursuant to the Loan

Agreement on the date of this opinion, valid and legally binding special obligations of the Borrower, payable solely from the sources provided therefor in the Loan Agreement, enforceable against the Borrower in accordance with their respective terms, except to the extent that the enforceability thereof may be limited by laws relating to bankruptcy, insolvency or other similar laws affecting creditors' rights generally and general principles of equity.

5. Pursuant, where applicable, to Nebraska Revised State Statutes §§18-1803 through 18-1805; §§31-732, 31-739, and 31-740, and all other applicable statutes governing eligible municipalities, the Loan Agreement creates a valid lien on the Net Revenues pledged by the Borrower pursuant to Section 3.02(a) of the Loan Agreement for the security of the Loan Agreement and the Note and no other debt of the Borrower is secured by a superior lien on such funds.
6. The Borrower has obtained or made all approvals, authorizations, consents, or other actions of, and filings, registrations, or qualifications with, the Borrower or any other government authority which are legally required to allow the Borrower to enter into and perform its obligations under the Loan Agreement and the Note and borrow the full Principal Amount pursuant to the Loan Agreement and the Note.

Very truly yours,

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**For Borrower's Legal/Bond Counsel:**

**A Form of Opinion of Borrower's Counsel is required for this loan agreement. Attachment E is NDEE's recommended language and attestations with areas of blue to be changed. The letter should be on counsel's letterhead, if applicable, and must be signed by a counselor.**

**Signing of the letter can be done in one of two ways:**

**1) A signed letter is provided to the SRF Project Manager to insert and incorporate into the loan before document is electronically signed; or**

**2) Counsel can sign a prepared letter inserted into the loan agreement at the time of electronic signing. Please provide an unsigned letter to the SRF Project Manager to incorporate into the loan document, and the name and email of the signee. When the loan goes out for electronic signing, the NDEE Director will sign the document; the loan will then automatically be sent to the Borrower for signature. Once signed, the loan will then automatically be sent to the attorney/bond counsel for final review and approval via signature.**

**Any questions, please contact the SRF Project Manager.**

**ATTACHMENT F**

**PROMISSORY NOTE OF THE METROPOLITAN UTILITIES DISTRICT OF OMAHA, NEBRASKA**

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay, but solely from the sources described herein, to the order of the Nebraska Department of Environment and Energy ("NDEE"), or its successors and assigns, the principal sum of not to exceed \$40,000,000 [less any Loan Forgiveness as established by Section 2.01 of the Loan Agreement], to the extent disbursed pursuant to Section 2.01 and Section 2.05 of the Loan Agreement No. D311693 ("the Loan Agreement"), with interest on each such amount until paid, pursuant to Section 2.03 of the Loan Agreement between the NDEE and the Borrower. In addition, the Borrower shall pay an Administrative Fee on the outstanding principal amount of this Note per annum pursuant to Section 2.04 of the Loan Agreement. The said principal, interest, and Administrative Fee shall be payable in semiannual installments each payable on June 15 and December 15 of each year in accordance with Section 2.06 of the Loan Agreement. Each installment shall be in the amount set forth in Attachment A to the Loan Agreement. The Borrower will pay any penalty or additional interest due pursuant to Section 2.06(d) of this Loan Agreement.

All payments under this Note shall be payable at the offices of the NDEE in Lincoln, Nebraska, and upon the assignment of this Note to the NIFA, at the principal corporate trust office of a Trustee designated by the NIFA, or such other place as the NDEE may designate in writing.

This Note is issued pursuant to and is secured by the Loan Agreement of the Metropolitan Utilities District of Omaha, Nebraska, the terms and provisions of which are incorporated herein by reference.

All payments of principal of and interest on this Note and other payment obligations of the Borrower hereunder shall be limited obligations of the Borrower payable solely out of the Net Revenues for the Payment of the Loan, as established in the Loan Agreement, and shall not be payable out of any other revenues of the Borrower. The obligations of the Borrower under this Note shall never constitute or give rise to a charge against its general credit or taxing power. This note shall not be a debt of the Borrower within the meaning of any constitutional statutory or charter limitation upon the creation of general obligation indebtedness of the Borrower.

If default be made in the payment of any installment due under this Note, or by the occurrence of any one or more of the Events of Default specified in Article V of the Loan Agreement, and if such Event of Default is not remedied as therein provided, or at any time thereafter, the NDEE may give notice to the Borrower that all unpaid amounts of this Note then outstanding, together with all other unpaid amounts outstanding under the Loan Agreement, are due and payable immediately, and thereupon, without further notice or demand, all such amounts shall become and be immediately due and payable. Failure to exercise this option shall not constitute a waiver of the right to exercise the same at any time in the event of any continuing or subsequent default.

Capitalized terms used but not defined herein have the meanings ascribed thereto in the Loan Agreement.

The Borrower hereby waives presentment for payment, demand, protest, notice of protest and notice of dishonor.

This Note and all instruments securing the same are to be construed according to the laws of the State of Nebraska. Signed and sealed, if applicable, by the following:

[SEAL] (if applicable)

METROPOLITAN UTILITIES DISTRICT OF OMAHA, NEBRASKA

NEBRASKA DEPARTMENT OF  
ENVIRONMENT AND ENERGY

Attest: _____ <i>(signature)</i>	By _____ <i>(signature)</i>	By _____ <i>(signature)</i>
Title _____ Senior Vice-President and CFO	Title _____ President	Title _____ Director
Date _____	Date _____	Date _____

**ATTACHMENT F**

**PROMISSORY NOTE OF THE METROPOLITAN UTILITIES DISTRICT OF OMAHA, NEBRASKA**

(continued)

Complete this section upon assignment of this Note to the NIFA.

Pursuant to the Pledge Agreement dated as of \_\_\_\_\_ as amended (the "Pledge Agreement"), by and between the NDEE and the Nebraska Investment Finance Authority ("NIFA"), and the \_\_\_\_\_ dated as of \_\_\_\_\_, as supplemented and amended, by and between NIFA \_\_\_\_\_, as trustee (the "Trustee"), the NDEE hereby assigns, grants and conveys any and all of the NDEE's rights, title and interest in this Note to NIFA, except as provided in the Pledge Agreement, and NIFA hereby assigns such rights, title and interest to the Trustee and any successor Trustee.

Attested by:

NEBRASKA INVESTMENT FINANCE  
AUTHORITY

By \_\_\_\_\_  
(printed name)

By \_\_\_\_\_  
(printed name)

**Note For Borrower:**

**If there are no comments or corrections to be made to Attachment F: Promissory Note, please print page the previous page, sign, date, and seal (if applicable). Then mail in to:**

T D	<p><b>Nebraska Department of Environment &amp; Energy</b></p> <p><b>ATTN: SRF PROGRAM – Steve McNulty</b></p> <p><b>PO Box 98922</b></p> <p><b>Lincoln, NE 68509-8922</b></p>	<p>_____ Title Director</p> <p>_____ Date</p>
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**Please leave this second page of Attachment F blank. This page only needs to be completed if the Nebraska Investment Finance Authority (NIFA) is appointed as a Trustee to the project.**

**ATTACHMENT G**

**CERTIFICATE OF THE METROPOLITAN UTILITIES DISTRICT OF OMAHA**

The following certifications are made in connection with the Agreement for Loan No. D311693 (the "Loan Agreement") between the Nebraska Department of Environment and Energy ("NDEE") and the Metropolitan Utilities District of Omaha, Nebraska (the "Borrower") for the purpose of establishing compliance by the Borrower with requirements for the maintenance of the tax exemption of interest on any bonds (the "Bonds") which may be from time to time issued by the Nebraska Investment Finance Authority ("NIFA") to provide funds for deposit in the Fund (as defined in the Loan Agreement).

WHEREFORE, the undersigned hereby certifies on behalf of the Borrower to the NDEE, the NIFA and any trustee for the Bonds, as follows:

1. The undersigned is authorized to make the following certifications on behalf of the Borrower.
2. The Borrower represents that it reasonably expects that the design and construction of the Project, as defined in this Loan Agreement, will commence within the stated Project Schedule established by Section 2.07 of this Loan Agreement and that the design and construction of the Project will proceed with due diligence thereafter to completion.
3. The proceeds of the loan pursuant to the Loan Agreement will be used for the project identified in Exhibit 1 of this Loan Agreement. There will be no Agreements for the use of the facility or Project other than Agreement on a rate scale basis. Specifically, the Borrower represents that there will be no Agreements for use of the Project that will require a non-governmental unit to make payments to the Borrower without regard to actual use of the Project.

Signed and dated as of \_\_\_\_\_.

Metropolitan Utilities District of Omaha, Nebraska

**DRAFT: PLEASE DO NOT SIGN THIS SECTION. THIS SECTION WILL BE SIGNED ELECTRONICALLY THROUGH DOCUSIGN.**

Title \_\_\_\_\_

President \_\_\_\_\_

Date \_\_\_\_\_



**ATTACHMENT H**

**ADDITIONAL DOCUMENTS**

Attachment H.01 – Loan Forgiveness Form

Attachment H.02 – Bond Resolution #XXXX Adopted December 6, 2023

**Attachment H.01**

**LOAN FORGIVENESS AGREEMENT FORM**

**PART I**  
**SRF LOAN FORGIVENESS AWARD**

Pursuant to Neb. Rev. Stat. §71-5322(9) et. Seq., as amended, the NDEE hereby offers the following Loan Forgiveness to the Borrower for the project as established by this Loan Agreement:

- (1) Loan Forgiveness. This Loan Agreement includes DWSRF Loan Forgiveness of up to 62.0% of the eligible Project Costs, up to a ceiling of twenty-four million, eight hundred thousand dollars (\$24,800,000). For any project costs incurred in areas outside of poverty rate census tracts, Loan Forgiveness will be at a rate of up to 39.89%.
- (2) Lead Service Line Inventory Grant. This Loan Agreement includes DWSRF Lead Service Line Inventory Grant of up to 10.0 % of the eligible Project Costs, up to a ceiling of four million dollars (\$4,000,000). This Loan Forgiveness is offered concurrent with this Loan Agreements Funds. Eligibility for such funds is made in accordance with the Federal Act, the state Act, Regulations, and the annual Intended Use Plan.

This Loan Forgiveness is offered concurrent with this Loan Agreements Funds. Eligibility for such funds is made in accordance with the Federal Act, the state Act, Regulations, and the annual Intended Use Plan.

**PART II**  
**LOAN FORGIVENESS CERTIFICATION**

If the Borrower is receiving Loan Forgiveness Funds, the Borrower certifies that as a condition of receipt of state allocations under this Loan Agreement, the following information is accurate and the Borrower agrees to the following statements and stipulations:

- (1) The Borrower is not considered a privately owned entity;
- (2) The population at the time of the Loan Forgiveness award for the Borrower is equal to or less than ten thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;
- (3) Based on information from the applicable Intended Use Plan, the Borrower's population is estimated to be 230,624.
- (4) The Borrower has demonstrated serious financial hardship through the assessment and processes established in the related NDEE's State Fiscal Year's (SFY) Intended Use Plan;
- (5) The Borrower's Median Household Income (MHI) as listed in the NDEE's SFY's Intended Use Plan at the time of signing of this Loan Agreement is less than 120% of the State's MHI for that SFY.
- (6) The total amount of Loan Forgiveness cannot exceed 75.0% of eligible SRF project cost of this Loan Agreement and cannot exceed a maximum of \$28,800,000.

**PART III**  
**LOAN FORGIVENESS CONDITIONS**

- (1) The total award of all Loan Forgiveness cannot exceed seventy-five percent of the total amount of eligible Project Costs.

- (2) Application and distribution of all Subsidies will be done pursuant to the terms as established by the Loan Agreement.
- (3) The total subsidy amount may be changed by the NDEE if the eligible project amount changes due to the project costs.
- (4) Violation or noncompliance of this Loan Agreement will result in annulment of all Loan Forgiveness and a demand that any disbursed Loan Forgiveness funds be returned to the State of Nebraska immediately.
- (5) If a Borrower receives any funding from any other funding source for costs paid for by this Loan Agreement, it will result in annulment of Loan Agreement Funds to the extent these costs are covered by the other funding. The Borrower will promptly notify the NDEE and promptly repay loan and Loan Forgiveness funds issued by the NDEE to the extent these costs are covered by the other funding.
- (6) Notice of annulment of any Loan Forgiveness shall be by registered mail, return receipt requested.
- (7) Additional changes to the Subsidies not specified in the stipulations herein shall be made through the amendment procedure as established by this Loan Agreement.

**PART IV**  
**ACCEPTANCE**

In accepting this award, the Borrower agrees that:

- (1) The undersigned represents that they are duly authorized to act on behalf of the Metropolitan Utilities District of Omaha, Nebraska;
- (2) The award is subject to the applicable provisions of §71-5322 et. seq., as amended, the Federal Act, and Regulations, and that acceptance of any payments constitutes an agreement by the Borrower that the amounts, if any, found by the state to have been overpaid, shall be refunded or credited in full to the State of Nebraska; and
- (3) If the Borrower receives funding from any source for any portion of the Project Costs for which a portion of the Loan Amount and Loan Forgiveness have been disbursed and is outstanding under this Loan Agreement, the recipient will notify the NDEE immediately and such portion of the Loan Amount and Loan Forgiveness amount shall become immediately due and payable.

IN WITNESS THEREOF, the parties hereto agree to the information and stipulations herein.

METROPOLITAN UTILITIES DISTRICT OF  
OMAHA, NEBRASKA

NEBRASKA DEPARTMENT OF  
ENVIRONMENT AND ENERGY

By _____ <small>(signature)</small>	By _____ <small>(signature)</small>
<b>DRAFT: PLEASE DO NOT SIGN THIS SECTION. THIS SECTION WILL BE SIGNED ELECTRONICALLY THROUGH DOCUSIGN.</b>	
Title _____ <small>President</small>	Title _____ <small>Director</small>
Date _____	Date _____

**METROPOLITAN UTILITIES DISTRICT**

*Inter-Department Communication*

November 30, 2023

**Subject: PROPOSED WATER RATE INCREASE - 2024**

**To:** Committee on Accounts, Expenditures, Finance and Rates  
cc: All Board Members; Mark Doyle, Steve Ausdemore, Andy Melville, Sue Lobsiger, Mark Mendenhall, and all Vice Presidents

**From:** Mark F. Myers, Senior Vice President, Chief Financial Officer

**RECOMMENDATION – WATER RATES**

Management is recommending a two-tiered increase to the overall Commodity component of water rates for 2024, as follows:

- 1) 8.5% increase for Rate schedules W-1 Residential and W-2 Commercial and Industrial, W-3 Large Volume Industrial and W-4 Commercial & Industrial-Sprinkling
- 2) 9.5% increase for Rate schedule WWS Wholesale.

The recommendation for a higher Commodity percentage increase for the Wholesale rate class results from a recent Cost-of-Service Study that indicates the need for a higher percentage increase to more closely align with the cost of providing water service to Wholesale customers.

Additionally, management is recommending a \$0.25 monthly increase to the Water Infrastructure Replacement (WIR) charge for Rate schedule W-1 Residential, from \$4.50 per month to \$4.75 per month, with a like percentage increase for all remaining rate classes.

The recommended rate increases will generate approximately \$8.3 million in incremental revenue as compared with 2023 budgeted revenues. The additional revenue in 2024 will address: 1) the rising cost of operations and 2) ongoing investment in the water infrastructure program, including water main replacement and other risk mitigation efforts including main condition assessment and leak detection.

**WATER RATE COMPARISON  
AVERAGE RESIDENTIAL CUSTOMER**

For the average use residential customer using a 5/8" water meter, the annualized increase will be \$19.47 or 4.7% higher than what was assumed for the 2023 budget. This is based on inside city rates and 2024 budgeted annual use of 103 CCF (76,700 gallons). The typical residential annual water bills will change as follows:

**BUDGET To BUDGET COMPARISON**

Projected 2024 Annual Residential Water Bill	\$ 436.52 (102.5 CCF)
2023 Annual Water Bill	<u>\$ 417.05 (102.4 CCF)</u>
Annual Change to Average Water Bill	\$ 19.47 +4.7%

Our water rates continue to trend mid-range when compared with others nationally and regionally. We are also one of the few utilities who operate three water treatment plants, which greatly enhances our reliability during all weather conditions.

**IMPACT FEES**

Management is recommending an 8.5% increase to Impact Fees. As new water demands are connected to the system, additional capacity such as oversizing mains and/or adding pump stations is necessary to assure adequate flow and pressure. The Impact Fee is intended to address the impact to the system when new customers are added, to avoid placing additional burden on existing customers.

The effective date of the recommended increase to Impact Fees will be June 1, 2024, to correspond to the effective date of a revised Billing Price Book.

**SUMMARY**

As discussed above, the recommended water rate increases will generate approximately \$8.3 million of incremental revenue in 2024.

The impact of this increase will be reflected in the budget presentation at the December 6, 2023, Board meeting, at which time a public hearing is also scheduled.

*Mark F Myers*

Mark F. Myers  
Senior Vice President, Chief Financial Officer  
(402) 504-7174

*Mark E Doyle*

APPROVED:

Mark E. Doyle  
President

Attachments

## **RESOLUTION**

WHEREAS, the Board of Directors of the Metropolitan Utilities District of Omaha finds that the District's water rates are no longer adequate to provide the revenues necessary to support the operation of the District's water distribution system; and

WHEREAS, the Board has reviewed the District's water rates, the effect of an increase to water rate schedules, and proposed revisions to impact fees as described in the attached memorandum dated November 30, 2023, signed by Mark F. Myers, Senior Vice President, Chief Financial Officer and

WHEREAS, the Board submitted this matter to a public hearing on December 6, 2023, for public comment; and

WHEREAS, the Board finds that the recommendations of the District's staff, as presented to the Board in that memorandum, should be adopted.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Metropolitan Utilities District of Omaha that a water rate increase and proposed revisions to the water rate schedules as described in the attached memorandum dated November 30, 2023, and signed by Mark F. Myers, Senior Vice President, Chief Financial Officer be and is hereby adopted and made effective as to billings for water service for usage occurring on or after January 2, 2024.

BE IT FURTHER RESOLVED that the rate schedules for water service rendered by the District to customers under franchise be adjusted in accordance with the schedules hereby adopted as permitted by such franchises.

BE IT FURTHER RESOLVED that the current water rate schedules for all water service be and are hereby rescinded concurrent with the effective date of the rate schedules adopted herein.

Adopted:

**METROPOLITAN**  
UTILITIES DISTRICT

**SCHEDULE WIR**  
**WATER INFRASTRUCTURE REPLACEMENT (WIR) RIDER**  
**EFFECTIVE JANUARY 2, ~~2023~~2024**

(Supersedes Schedule WIR Effective January 2, ~~2021~~2023)

**APPLICABILITY**

This rider shall apply to and become a part of each of the District’s retail and wholesale rate schedules. The rate will be applied per meter by customer class and rate schedule. The monthly charge will be assessed in addition to the Service Charge component of their applicable rate schedule.

**PURPOSE**

The purpose of this rider is for the District to recover costs associated with the replacement of water mains. This rate has been weighted by the average use per customer class. On an annual basis, the weighting, past actual cost, and projected future costs will be reviewed.

**RATE - MONTHLY BILLING**

The charges for the respective water service schedules (per month) are:

- Schedule W-1, Residential Water Service ~~\$4.50~~\$4.75
- Schedule W-2:
  - Commercial Water Service ~~\$24.75~~\$26.25
  - Industrial Water Service ~~\$562.50~~\$593.50
- Schedule W-3, Large Volume Industrial Water Svc ~~\$562.50~~\$593.50
- Schedule W-4, Commercial Cooling & Sprinkling Svc ~~\$24.75~~\$26.25
- Schedule WWS, Wholesale Water Service ~~\$562.50~~\$593.50

**MINIMUM MONTHLY BILL**

The minimum monthly bill will be the sum of the Service Charge and WIR Charge for each respective rate schedule.

**PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within 15 days of date of bill, unpaid water charges are subject to a late payment charge of four (4) percent.

**METROPOLITAN**  
UTILITIES DISTRICT

**Schedule W-1**  
**RESIDENTIAL WATER SERVICE**  
**Effective January 2, ~~2023~~2024**

(Supersedes Schedule W-1 Effective January 2, ~~2022~~2023)

**AVAILABILITY**

This rate schedule is available to and applies to customers purchasing water for residential purposes, including lawn irrigation, provided that:

1. Customer resides within District boundaries or customer resides outside of District boundaries but also outside of cities and villages served under franchise.
2. Not more than three dwelling units or not more than eight sleeping rooms are connected to one meter, unless all units are occupied by one family.
3. This Rate Schedule is not available for water used in connection with common areas associated with homeowner associations or sanitary improvement districts.

**METERING**

The unit of measure for water billing is CCF. 1 CCF = 100 cubic feet = 748 gallons.

**RATE - MONTHLY BILLING**

<b>Service Charge:</b>	<b><u>Meter Size</u></b>	<b><u>Monthly Charge</u></b>
	5/8"	\$13.02
	3/4"	\$19.54
	1"	\$32.55
	1 1/2"	\$65.11
	2"	\$104.18
	3"	\$208.34

<b>Commodity Charge (Per 100 Cubic Feet)</b>	<b><u>November-May</u></b>	<b><u>June-October*</u></b>
First 900 cubic feet	<del>\$1.8242</del> \$1.9788	<del>\$1.8242</del> \$1.9788
Next 2,100 cubic feet	<del>\$1.8242</del> \$1.9788	<del>\$2.5539</del> \$2.7703
Over 3,000 cubic feet	<del>\$1.8242</del> \$1.9788	<del>\$3.2835</del> \$3.5618

\*For billing purposes, summer rates will apply to accounts with a charge date of June through October.

**Minimum Monthly Bill:**

The minimum monthly charge shall be the monthly service charge as indicated above.



**STATUTORY PAYMENT TO CITIES AND VILLAGES**

Neb. Rev. Stat. § 14-2138 (2019) requires Metropolitan Utilities District to pay the city of a metropolitan class two (2) percent of the retail sales of water sold by the District within such city. Neb. Rev. Stat. § 14-2139 (2019) requires Metropolitan Utilities District to pay every city or village of any class, other than metropolitan, in which the district sells water, two (2) percent of retail sales of water within such city or village. Two (2) percent has not been included in the above rate. Therefore, the rate for all customers residing inside the corporate limits of a city of a metropolitan class or other city or village in which the district sells water is two (2) percent greater than the rate indicated above.

**PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within 15 days of date of bill, unpaid water charges are subject to a late payment charge of four (4) percent.

**TURN-ON CHARGE**

A turn-on charge will be required upon application for water service.

**INTERRUPTION OF SERVICE**

Water service under this schedule is subject to restriction or prohibition in the event of an emergency, planned or unplanned work on the water system, or in response to water shortages. The District shall determine and execute the appropriate level of response in accordance with its Water Rules and Regulations.

**METROPOLITAN**  
**UTILITIES DISTRICT**

**Schedule W-2**  
**COMMERCIAL & INDUSTRIAL WATER SERVICE**  
**Effective January 2, ~~2023~~2024**

**(Supersedes Schedule W-2 Effective January 2, ~~2022~~2023)**

**AVAILABILITY**

This rate schedule is available to customers purchasing water for commercial and industrial purposes provided customer resides within the District boundaries or outside District boundaries, but also outside cities and villages served under franchise.

When residential water use is combined with commercial or industrial water use on a single meter, all water used will be classified as commercial or industrial.

**METERING**

The unit of measure for water billing is CCF. 1 CCF = 100 cubic feet = 748 gallons.

**RATE - MONTHLY BILLING**

<b>Service Charge:</b>	<b><u>Meter Size</u></b>	<b><u>Monthly Charge</u></b>
	5/8"	\$13.02
	3/4"	\$19.54
	1"	\$32.55
	1 1/2"	\$65.11
	2"	\$104.18
	3"	\$208.34
	4"	\$240.00
	6"	\$475.00
	8"	\$700.00
	10"	\$940.00
	12"	\$1,405.00

<b>Commodity Charge (Per 100 Cubic Feet)</b>	<b><u>November-May</u></b>	<b><u>June-October*</u></b>
All Water Used	<del>\$1.6047</del> <u>\$1.7407</u>	<del>\$2.1483</del> <u>\$2.3304</u>

\*For billing purposes, summer rates will apply to accounts with a charge date of June through October.

**Minimum Monthly Bill:**

The minimum monthly charge shall be the monthly service charge as indicated above.

**STATUTORY PAYMENT TO CITIES AND VILLAGES**

Neb. Rev. Stat. § 14-2138 (2019) requires Metropolitan Utilities District to pay the city of a metropolitan class two (2) percent of the retail sales of water sold by the District within such city. Neb. Rev. Stat. § 14-2139 (2019) requires Metropolitan Utilities District to pay every city or village of any class, other than metropolitan, in which the district sells water, two (2) percent of retail sales of water within such city or village. Two (2) percent has not been included in the above rates. Therefore, the rate for all customers residing inside the corporate limits of a city of a metropolitan class or other city or village in which the district sells water is two (2) percent greater than the rate indicated above.

**PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within 15 days of date of bill, unpaid water charges are subject to a late payment charge of four (4) percent.

**TURN-ON CHARGE**

A turn-on charge will be required upon application for water service.

**WATER QUALITY REPORTS**

One water quality report per month shall be available to customers under Water Rate Schedule W-2 at no charge IF the report is delivered by E-mail.

**INTERRUPTION OF SERVICE**

Water service under this schedule is subject to restriction or prohibition in the event of an emergency, planned or unplanned work on the water system, or in response to water shortages. The District shall determine and execute the appropriate level of response in accordance with its Water Rules and Regulations.

**METROPOLITAN**  
**UTILITIES DISTRICT**

**Schedule W-3**  
**LARGE VOLUME INDUSTRIAL WATER SERVICE**  
**Effective January 2, ~~2023~~2024**

**(Supersedes Schedule W-3 Effective January 2, ~~2022~~2023)**

**AVAILABILITY**

This rate is available to industrial customers whose primary water requirement is for use in the process in which the customer is primarily engaged; whose normal water consumption is 5,000 hundred cubic feet or more per month; and who agree to remain on this rate for a period of not less than one year.

An industrial customer is generally defined as a customer who is engaged primarily in a process which creates or changes any raw or unfinished materials into another form or product but may include other processes where District determines that load characteristics are similar. Irrigation is specifically excluded.

**METERING**

The unit of measure for water billing is CCF. 1 CCF = 100 cubic feet = 748 gallons.

**RATE - MONTHLY BILLING**

**Service Charge:**

<u>Meter Size</u>	<u>Monthly Charge</u>
5/8"	\$13.02
3/4"	\$19.54
1"	\$32.55
1 1/2"	\$65.11
2"	\$104.18
3"	\$208.34
4"	\$240.00
6"	\$475.00
8"	\$700.00
10"	\$940.00
12"	\$1,405.00

**Commodity Charge**

First 5,000 CCF (100 cubic feet) or less

~~\$9,048.00~~ \$9,821.00

Over 5,000 CCF (per 100 cubic feet)

~~\$1.5526~~ \$1.6853

**Minimum Monthly Bill:**

The minimum monthly charge shall be ~~\$9,048.00~~ \$9,821.00 plus the monthly service charge as indicated above.

**STATUTORY PAYMENT TO CITIES AND VILLAGES**

Neb. Rev. Stat. § 14-2138 (2019) requires Metropolitan Utilities District to pay the city of a metropolitan class two (2) percent of the retail sales of water sold by the District within such city. Neb. Rev. Stat. § 14-2139 (2019) requires Metropolitan Utilities District to pay every city or village of any class, other than metropolitan, in which the district sells water, two (2) percent of retail sales of water within such city or village. Two (2) percent has not been included in the above rate. Therefore, the rate for all customers residing inside the corporate limits of a city of a metropolitan class or other city or village in which the district sells water is two (2) percent greater than the rate indicated above.

**PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within 15 days of date of bill, unpaid water charges are subject to a late payment charge of four (4) percent.

**TURN-ON CHARGE**

A turn-on charge will be required upon application for water service.

**INTERRUPTION OF SERVICE**

Water service under this schedule is subject to restriction or prohibition in the event of an emergency, planned or unplanned work on the water system, or in response to water shortages. The District shall determine and execute the appropriate level of response in accordance with its Water Rules and Regulations.

**METROPOLITAN**  
**UTILITIES DISTRICT**

**Schedule W-4**  
**COMMERCIAL & INDUSTRIAL WATER SERVICE**  
**SPRINKLING - LAKE RECHARGE - COOLING**  
**Effective January 2, ~~2023~~2024**

(Supersedes Schedule W-4 Effective January 2, ~~2022~~ 2023)

**AVAILABILITY**

This rate schedule is available to and required of commercial and industrial customers purchasing water for the primary purposes of sprinkling/irrigation, lake/lagoon recharge, and/or cooling. This rate schedule may also apply to other water uses having high summertime peak demands that can be expected to coincide with system peak water demands.

This rate schedule shall apply to customers residing within District boundaries, and to customers residing outside District boundaries who also reside outside cities and villages served under franchise.

**METERING**

The unit of measure for water billing is CCF. 1 CCF = 100 cubic feet = 748 gallons.

**RATE - MONTHLY BILLING**

**Service Charge:**

<u>Meter Size</u>	<u>Monthly Charge</u>
5/8"	\$13.02
3/4"	\$19.54
1"	\$32.55
1 1/2"	\$65.11
2"	\$104.18
3"	\$208.34
4"	\$240.00
6"	\$475.00
8"	\$700.00
10"	\$940.00
12"	\$1,405.00

**Commodity Charge (Per 100 Cubic Feet):**

	<u>November-May</u>	<u>June-October*</u>
First 100 CCF	<del>\$1.5879</del> <u>\$1.7235</u>	<del>\$2.1258</del> <u>\$2.3073</u>
Next 1,000 CCF	<del>\$1.5879</del> <u>\$1.7235</u>	<del>\$4.2516</del> <u>\$4.6146</u>
Over 1,100 CCF	<del>\$1.5879</del> <u>\$1.7235</u>	<del>\$3.1888</del> <u>\$3.4610</u>

\*For billing purposes, summer rates will apply to accounts with a charge date of June through October.

**Minimum Monthly Bill:**

The minimum monthly charge shall be the monthly service charge as indicated above.

**STATUTORY PAYMENT TO CITIES**

Neb. Rev. Stat. § 14-2138 (2019) requires Metropolitan Utilities District to pay the city of a metropolitan class two (2) percent of the retail sales of water sold by the District within such city. Neb. Rev. Stat. § 14-2139 (2019) requires Metropolitan Utilities District to pay every city or village of any class, other than metropolitan, in which the district sells water, two (2) percent of retail sales of water within such city or village. Two (2) percent has not been included in the above rate. Therefore, the rate for all customers residing inside the corporate limits of a city of a metropolitan class or other city or village in which the district sells water is two (2) percent greater than the rate indicated above.

**PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within 15 days of date of bill, unpaid water charges are subject to a late payment charge of four (4) percent.

**TURN-ON CHARGE**

A turn-on charge will be required upon application for water service.

**INTERRUPTION OF SERVICE**

Water service under this schedule is subject to restriction or prohibition in the event of an emergency, planned or unplanned work on the water system, or in response to water shortages. The District shall determine and execute the appropriate level of response in accordance with its Water Rules and Regulations.

**METROPOLITAN**  
**UTILITIES DISTRICT**

**Schedule WWS**  
**WHOLESALE WATER SERVICE**  
**Effective January 2, ~~2023~~2024**

**(Supersedes Schedule WWS Effective January 2, ~~2022~~2023)**

**AVAILABILITY**

Subject to approval by the Board of Directors of each contract for deliveries here under, this rate is available for and required of municipal and other governmental entities purchasing water for distribution and/or resale to ultimate consumers for residential, commercial, industrial, irrigation and other purposes.

**METERING**

The unit of measure for water billing is CCF. 1 CCF = 100 cubic feet = 748 gallons.

**SERVICE CHARGE - MONTHLY BILLING**

<u>Meter Size</u>	<u>Monthly Charge</u>
5/8"	\$13.02
3/4"	\$19.54
1"	\$32.55
1 1/2"	\$65.11
2"	\$104.18
3"	\$208.34
4"	\$240.00
6"	\$475.00
8"	\$700.00
10"	\$940.00
12"	\$1,405.00

**Commodity Charge**

First 5,000 CCF (100 cubic feet) or less

~~\$7,007~~\$7,672

Over 5,000 CCF (per 100 cubic feet)

~~\$1.2053~~\$1.3198

**MINIMUM MONTHLY BILL**

The minimum monthly charge shall be ~~\$7,007.00~~\$7,672.00 plus the monthly service charge as indicated above.

**PAYMENT**

Bills rendered at the above schedules are due and payable within 15 days of date of bill unless otherwise provided for by contract.

**CONTRACT**

Customer must execute written agreement with District for a term of not less than five (5) years which is made a part of this rate schedule.

**INTERRUPTION OF SERVICE**

Water service under this schedule is subject to restriction or prohibition in the event of an emergency, planned or unplanned work on the water system, or in response to water shortages. The District shall determine and execute the appropriate level of response in accordance with its Water Rules and Regulations.





**IMPACT FEES**  
**EFFECTIVE June 1, ~~2023~~2024**

**(Supersedes Impact Fees Effective June 1, ~~2022~~2023)**

METER		FLOW RATING	IMPACT FEES	
SIZE	TYPE	Capacity (per GPM)	Current	Proposed
			<del>\$93,941</del> \$100,580	<del>\$100,580</del> \$109,110
5/8"	Disc	10	<del>\$939</del> \$1,006	<del>\$1,006</del> \$1,091
3/4"	Disc	15	<del>\$1,409</del> \$1,509	<del>\$1,509</del> \$1,637
1"	Disc	25	<del>\$2,348</del> \$2,515	<del>\$2,515</del> \$2,728
1 1/2"	Disc	50	<del>\$4,696</del> \$5,029	<del>\$5,029</del> \$5,455
2"	Disc	80	<del>\$7,513</del> \$8,046	<del>\$8,046</del> \$8,728
2"	Turbo	160	<del>\$15,026</del> \$16,093	<del>\$16,093</del> \$17,456
3"	Compound	160	<del>\$15,026</del> \$16,093	<del>\$16,093</del> \$17,456
3"	Turbo	350	<del>\$32,869</del> \$35,203	<del>\$35,203</del> \$38,185
4"	Compound	250	<del>\$23,478</del> \$25,145	<del>\$25,145</del> \$27,275
4"	Turbo	1,000	<del>\$93,910</del> \$100,580	<del>\$100,580</del> \$109,110
6"	Compound	500	<del>\$46,955</del> \$50,290	<del>\$50,290</del> \$54,550
6"	Turbo	2,000	<del>\$187,820</del> \$201,160	<del>\$201,160</del> \$218,200
8"	Turbo	2,800	<del>\$262,948</del> \$281,624	<del>\$281,624</del> \$305,480
10"	Turbo	3,200	<del>\$300,512</del> \$321,856	<del>\$321,856</del> \$349,120

# METROPOLITAN UTILITIES DISTRICT

*Inter-Department Communication*

November 30, 2023

**Subject: PROPOSED GAS RATE INCREASE - 2024**

**To:** Committee on Accounts, Expenditures, Finance and Rates  
cc: All Board Members; Mark Doyle, Steve Ausdemore, Andy Melville, Sue Lobsiger, Mark Mendenhall, and all Vice Presidents

**From:** Mark F. Myers, Senior Vice President, Chief Financial Officer

## **RECOMMENDATION**

Management is recommending a 2.5% increase to the Base Commodity charge for all rate classes. Additionally, management is recommending a \$0.25 monthly increase to the Gas Infrastructure Replacement (GIR) charge for Rate Schedule A Residential, from \$3.50 per month to \$3.75 per month, with a like percentage increase for all remaining rate classes.

The recommended rate increases will generate approximately \$2.1 million in incremental revenue as compared with 2023 budgeted revenues. The additional revenue in 2024 will address: 1) the rising cost of operations, 2) ongoing investment in the gas infrastructure replacement program and 3) debt service costs associated with November 2023 bond issuance to fund design and construction costs for a second Construction Center as well as the remodel of our existing Construction Center.

## **GAS RATE COMPARISON AVERAGE RESIDENTIAL CUSTOMER**

For the average use residential customer, the annualized decrease will be \$105.94 or 13.0% lower than what was assumed for the 2023 budget. This is based on inside city rates and 2024 budgeted annual use of 75.9 Dth. This decrease is driven by the lower cost of natural gas compared with 2023 budget assumptions, partially offset by the rate increases described above.

The typical residential annual natural gas bills will change as follows:

<b>BUDGET TO BUDGET COMPARISON</b>				
	<u>2024</u>	<u>2023</u>	<u>Change</u>	
Projected Annual Residential Gas Bill			\$	%
Budgeted Usage	75.9 Dth	76.1 Dth		
Pass-Through Items				
Natural Gas & Other	\$380.58	\$488.28	(\$107.70)	(22.1%)
 To Fund MUD Operations	<u>\$327.72</u>	<u>\$325.96</u>	<u>\$ 1.76</u>	<u>0.5%</u>
 Total	\$708.30	\$814.24	(\$105.94)	(13.0%)

Our natural gas rates continue to rank among the “top ten” lowest cost providers when compared with others nationally and regionally. We are also one of the few utilities that operates a liquefied natural gas plant to minimize those occasions when we must purchase natural gas on the “spot market” during the coldest periods of the year, thereby protecting our customers from dramatic increases in natural gas cost costs.

### SUMMARY

As discussed above, the recommended gas rate increases will generate approximately \$2.1 million of incremental revenue in 2024.

The impact of this increase will be reflected in the budget presentation at the December 6, 2023, Board meeting, at which time a public hearing is also scheduled.

*Mark F Myers*

Mark F. Myers  
Senior Vice President, Chief Financial Officer  
(402) 504-7174

APPROVED:

*Mark Doyle*

Mark Doyle  
President

Attachments

## **RESOLUTION**

WHEREAS, the Board of Directors of the Metropolitan Utilities District of Omaha finds that the District's natural gas rates are no longer adequate to provide the revenues necessary to support the operation of the District's gas distribution system; and

WHEREAS, the Board has considered a proposal to increase natural gas rates and the effect of an increase to gas rate schedules as described in the attached memorandum dated November 30, 2023, signed by Mark F. Myers, Senior Vice President, Chief Financial Officer; and

WHEREAS, the Board submitted this matter to a public hearing on December 6, 2023, for public comment; and

WHEREAS, the Board finds that the recommendations of the District's staff, as presented to the Board in that memorandum, should be adopted.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Metropolitan Utilities District of Omaha that a natural gas rate increase and proposed revisions to the natural gas rate schedules as described in the attached memorandum dated November 30, 2023, and signed by Mark F. Myers, Senior Vice President, Chief Financial Officer be and is hereby adopted and made effective as to billings for natural gas service for usage occurring on or after January 2, 2024.

BE IT FURTHER RESOLVED that the rate schedules for gas service provided by the District to customers under franchise be adjusted in accordance with the schedules hereby adopted as permitted by such franchises.

BE IT FURTHER RESOLVED that the current natural gas rate schedules for all natural gas service be and are hereby rescinded concurrent with the effective date of the rate schedules adopted herein.

Adopted:

**METROPOLITAN**  
UTILITIES DISTRICT

**SCHEDULE GIR**  
**GAS INFRASTRUCTURE REPLACEMENT (GIR) RIDER**  
**EFFECTIVE JANUARY 2, ~~2023~~2024**

**(Supersedes Schedule GIR effective January 2, ~~2021~~2023)**

**APPLICABILITY**

This rider shall apply to and become a part of each of the District’s sales and transportation rate schedules. The rate will be applied per meter\* by customer class and rate schedule. The monthly charge will be assessed in addition to the Service Charge component of their applicable rate schedule.

**PURPOSE**

The purpose of this rider is for the District to recover costs associated with the replacement of gas mains. This rate has been weighted by the average use per customer class. On an annual basis, the weighting, past actual cost, and projected future costs will be reviewed.

**RATE - MONTHLY BILLING**

The charges for the respective gas service schedules are:

- Schedule A, Residential Gas Service ~~\$3.50~~\$3.75
- Schedule B - Commercial Gas Service ~~\$27.00~~\$29.00
- Schedule B - Industrial Gas Service ~~\$350.00~~\$375.00
- Schedule C, Large Volume Industrial Gas Svc ~~\$350.00~~\$375.00
- Schedule D, Compressed Natural Gas Svc

Compression by the customer; separately metered:

- Residential Service ~~\$3.50~~\$3.75
- Commercial Service ~~\$27.00~~\$29.00
- Schedule 3, Interruptible Gas Service ~~\$350.00~~\$375.00
- Schedules IT & FT, Transportation Service ~~\$350.00~~\$375.00

**MINIMUM MONTHLY BILL**

The minimum monthly bill will be the sum of the Service Charge and GIR Charge for each respective rate schedule.

\*Charge is applied to each active meter at the time of billing. Excludes submeter bills.

**PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within 15 days of date of bill, unpaid water charges are subject to a late payment charge of four (4) percent.

**METROPOLITAN**  
UTILITIES DISTRICT

**SCHEDULE A**  
**RESIDENTIAL GAS SERVICE**  
EFFECTIVE JANUARY 2, ~~2023~~2024

(Supersedes Schedule A effective January 2, ~~2021~~2023)

**AVAILABILITY**

This rate schedule is available to customers purchasing firm gas for residential purposes including space heating, provided:

- That not more than three dwelling units equipped with individual appliances be connected to a single meter unless the area served is utilized by one occupant.
- That the combined input ratings of all heating equipment in multiple family dwellings shall not exceed 500 cubic feet (500,000 BTUs) per hour.

**METERING AND BILLING UNITS**

Gas meters register in units of cubic feet, either CCF (100 cubic feet) or MCF (1,000 cubic feet). In most cases, the index readings from the meter can be directly applied in the billing process. In some instances, direct readings from the meter index require correction for pressure.

Residential gas meters are read in units of 100 cubic feet (CCF) and billed in Therms. The volume of gas measured in cubic feet is adjusted for heat value and pressure factor to derive the amount of energy used, measured in Therms.

Example: 15 CCF X 1.030 (heat value) X 1.0998 pressure factor = 16.992 therms.

Note: Gas contains varying amounts of energy. The heat value converts the volume of gas (CCF) to an energy volume which is adjusted for gas pressure. The result is the volume of gas billed in therms.

**RATE - MONTHLY BILLING**

The monthly bill shall consist of the following charges:

- Service Charge (monthly) \$13.72
- Gas Infrastructure Replacement Charge (monthly) ~~\$ 3.50~~ \$ 3.75
- Base Commodity Charge (all gas used per therm) ~~\$ .1315~~ \$ .1348
- Gas Cost (all gas used)
  - a. Weighted Avg Cost of Gas (WACOG) (see Rate Schedule GCA)
  - b. Gas Cost Adjustment (GCA) (see Rate Schedule GCA)

The minimum monthly bill shall be the sum of the monthly Service Charge and monthly Gas Infrastructure Replacement Charge.

**GAS COST**

The Base Commodity Charge will be combined with the Weighted Average Cost of Gas (WACOG) and Gas Cost Adjustment (GCA) for a combined Commodity Billing Rate in accordance with Schedule GCA, Gas Cost Adjustment Provisions.

Rates included herein are subject to adjustment for monthly changes in the cost of natural gas to the District and peak shaving costs as provided for in gas rate Schedule GCA, Gas Cost Adjustment Provisions. For current billing rate and/or billing rate history contact the District's Marketing or Rate Divisions.

**STATUTORY PAYMENT TO CITIES**

Under Sections 14-2138 and 2139, R.R.S.1997, the District is required to pay to each city or village two (2) percent of retail sales of gas. Two (2) percent has not been included in the above rates. Therefore, the rates for all customers residing inside corporate limits is 2 percent greater than the rate indicated above. This 2% statutory requirement does not apply to gas infrastructure replacement charges.

**PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within fifteen (15) days of date of bill, unpaid gas charges are subject to a late payment charge of four (4) percent.

**TURN-ON CHARGE**

A turn-on charge will be required upon application for gas service.

**EMERGENCY PRIORITY**

Gas service under this schedule is subject to curtailment to meet fuel requirements of higher emergency priority customers. Emergency priority customers shall be determined by District or as directed by other governmental authority having jurisdiction.

**METROPOLITAN**  
**UTILITIES DISTRICT**

**SCHEDULE B**  
**COMMERCIAL OR INDUSTRIAL FIRM GAS SERVICE**  
**EFFECTIVE JANUARY 2, ~~2023~~2024**

**(Supersedes Schedule B effective January 2, ~~2021~~2023)**

**AVAILABILITY**

This rate schedule is available to customers purchasing firm gas for commercial or industrial purposes, including space heating, under the following conditions:

1. When residential gas use is combined with commercial or industrial gas use on a single meter, all gas used will be classified as commercial or industrial.
2. Multiple housing customers having more than three dwelling units connected to a single meter shall be considered commercial.
3. The total daily requirement for all gas uses shall not exceed 199,000 cubic feet per day.
4. District may require a customer to furnish daily meter readings for the purpose of monitoring the customer's gas load.

**LARGE VOLUME USE**

Loads in excess of 199,000 cubic feet per day must have received special authorization from District President.

**METERING AND BILLING UNITS**

District gas meters register in units of cubic feet. For billing purposes, gas meters are read in units of cubic feet, either CCF (100 cubic feet) or Mcf (1,000 cubic feet). In most cases, the index readings from the meter can be directly applied in the billing process. In some instances, direct readings from the meter index require correction for pressure and/or temperature. Some of the District's larger commercial/industrial meters are equipped with correction devices including an additional index showing the corrected usage.

Supercompressibility Adjustment – Due to the behavior of gas molecules under high pressures, additional correction to index readings in certain situations will be applied. For example, meter readings for customers receiving gas metered at pressures equal to or greater than 40 psig or for customers receiving gas metered at pressures equal to or greater than 10 psig with annual usage of 50,000 Mcf or more shall be adjusted for supercompressibility. The supercompressibility adjustment factor shall be specifically identified on the customer's monthly bill.

\*Billing Units – The billing unit under this rate schedule is a therm [one hundred thousand British thermal units (Btu)]. The number of therms billed hereunder in any month shall be determined by multiplying the volume of gas in cubic feet by the average heating value of the gas, expressed in Btu per cubic foot as applicable for such month and dividing this product by 100,000.

Example 1: 50 CCF X 1.030 (heat value) X 1.0998 pressure factor = 56.640 therms.

Example 2: 120 MCF X 1.030 (heat value) X 1.0998 pressure factor = 135.935 therms.



**RATE - MONTHLY BILLING**

- Service Charge (per month) \$ 18.62
- Commercial Gas Infrastructure Replacement Charge (per month) ~~\$ 27.00~~ \$ 29.00
  
- Industrial Gas Infrastructure Replacement Charge (per month) ~~\$350.00~~ \$375.00
  
- Base Commodity Charge (per therm)

	<u>Nov thru Mar</u>	<u>Apr thru Oct</u>
– First 2,500 Therms	<del>\$ .1588</del> <u>\$ .1628</u>	<del>\$ .0775</del> <u>\$ .0794</u>
– Over 2,500 Therms	<del>\$ .1431</del> <u>\$ .1467</u>	<del>\$ .0620</del> <u>\$ .0636</u>
- Gas Cost (All gas used)
  - a. Weighted Avg Cost of Gas (WACOG) (see Rate Schedule GCA)
  - b. Gas Cost Adjustment (GCA) (see Rate Schedule GCA)
  
- The minimum monthly bill shall be the sum of the monthly Service Charge and monthly Gas Infrastructure Replacement Charge.

**GAS COST**

The Base Commodity Charge will be combined with the Weighted Average Cost of Gas (WACOG) and Gas Cost Adjustment (GCA) for a combined Commodity Billing Rate in accordance with Schedule GCA, Gas Cost Adjustment Provisions.

Rates included herein are subject to monthly adjustment for changes in cost of natural gas to District and peak shaving costs as provided for in gas rate Schedule GCA, Gas Cost Adjustment Provisions. For current billing rate and/or billing rate history contact the District’s Marketing or Rate Divisions.

**STATUTORY PAYMENT TO CITIES**

Under Sections 14-2138 and 2139, R.R.S.1997, the District is required to pay to each city or village two (2) percent of retail sales of gas. Two (2) percent has not been included in the above rates. Therefore, the rates for all customers residing inside corporate limits is 2 percent greater than the rate indicated above. This 2% statutory requirement does not apply to gas infrastructure replacement charges.

**PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within fifteen (15) days of date of bill, unpaid gas charges are subject to a late payment charge of four (4) percent.

**TURN-ON CHARGE**

A turn-on charge will be required upon application for gas service.

**EMERGENCY PRIORITY**

Gas service under this schedule is subject to curtailment to meet fuel requirements of higher emergency priority customers. Emergency priority customers shall be determined by District or as directed by other governmental authority having jurisdiction.

**STRANDED COSTS**

Customers who have received firm service for a period of three years or more and who convert to interruptible service or transportation service shall be subject to the “Stranded pipeline/supply costs” monthly charge as provided for under the District’s rate “Schedule FT, Firm Gas Transportation Service”.

This provision shall also apply where there has been continuous service for three years or more at the same service address under one or more ownership changes.

# METROPOLITAN

## UTILITIES DISTRICT

### SCHEDULE C - LARGE VOLUME FIRM GAS SERVICE EFFECTIVE JANUARY 2, ~~2023~~2024

(Supersedes Schedule C effective January 2, ~~2021~~2023)

#### AVAILABILITY

1. This rate schedule shall apply to customers contracting for natural gas requirements in excess of 199 decatherms (DTH) per day. Term of contract shall be for a period of not less than one year.
2. Gas service under this schedule is available only for the purposes and to the extent that gas is available therefore pursuant to the Rules and Regulations of the District at the time application is made therefor.
3. Availability of service under this schedule is limited to customers whose gas-burning equipment is at a location abutting upon District gas mains of adequate capacity to render such service or is sufficiently near a main where an adequate supply exists so that at the discretion of the District an extension of gas main is justified.
4. Gas supplied under this schedule will be separately metered and not used interchangeably with gas supplied under any other schedule.

#### METERING AND BILLING UNITS

District gas meters register in units of cubic feet. For billing purposes, gas meters are read in units of either CCF (100 cubic feet) or Mcf (1,000 cubic feet). In most cases, the index readings from the meter can be directly applied in the billing process. In some instances, direct readings from the meter index require correction for pressure and/or temperature. Some of the District's larger commercial/industrial meters are equipped with correction devices including an additional index showing the corrected usage.

Supercompressibility Adjustment – Due to the behavior of gas molecules under high pressures, additional correction to index readings in certain situations will be applied. For example, meter readings for customers receiving gas metered at pressures equal to or greater than 40 psig or for customers receiving gas metered at pressures equal to or greater than 10 psig with annual usage of 50,000 Mcf or more shall be adjusted for *supercompressibility*. The supercompressibility adjustment factor shall be specifically identified on the customer's monthly bill.

Billing Units – The billing unit under this rate schedule is a decatherm [one million British thermal units (Btu)]. The volume of gas measured in cubic feet is adjusted for heat value and pressure factor to derive the amount of energy used, measured in decatherms.

#### RATE - MONTHLY BILLING

- Gas Infrastructure Replacement Charge (per month)  
~~\$350.00~~\$375.00
- Base Commodity Charge – All gas used (per decatherm)  
~~\$0.5592~~\$0.5732
- Gas Cost – All gas used:
  - a. Weighted Avg Cost of Gas (WACOG) (see Rate Schedule GCA)
  - b. Gas Cost Adjustment (GCA) (see Rate Schedule GCA)

The Minimum Monthly Bill shall be the Demand Charge (Rate Schedule GCA)

Arrangements for daily meter readings and/or determination of daily (24-hour) gas use must be made to the satisfaction of District. If at any time a customer's daily usage exceeds the current maximum daily contract requirement a new contract requirement shall be set at the newly established maximum day usage. A maximum daily contract requirement can be reduced, if it has been in effect for a period of not less than 12 months and customer can demonstrate to District satisfaction that customer requirements have been permanently reduced by changes in production levels or by the use of more efficient equipment.

**GAS COST**

The Base Commodity Charge will be combined with the Weighted Average Cost of Gas (WACOG) for a combined Commodity Billing Rate. WACOG shall be derived in accordance with Schedule GCA, Gas Cost Adjustment Provisions. Peak shaving capital costs shall also apply to the demand charge in accordance with the provisions of Rate Schedule GCA.

Rates included herein are subject to adjustment for monthly changes in the cost of natural gas to the District as provided for in gas rate Schedule GCA, Gas Cost Adjustment Provisions. For current billing rate and/or billing rate history contact the District's Marketing or Rate Divisions

**STATUTORY PAYMENT TO CITIES**

Under Sections 14-2138 and 2139, R.R.S.1997, the District is required to pay to each city or village two (2) percent of retail sales of gas. Two (2) percent has not been included in the above rate. Therefore, the rate for all customers residing inside corporate limits is 2 percent greater than the rate indicated above. This 2% statutory requirement does not apply to gas infrastructure replacement charges.

**PAYMENT** The monthly bill will be rendered at the above net rate.

**TURN-ON CHARGE** A turn-on charge will be required upon application for gas service.

**EMERGENCY PRIORITY**

Gas service under this schedule is subject to curtailment to meet fuel requirements of higher emergency priority customers. Emergency priority customers shall be determined by District or as directed by other governmental authority having jurisdiction.

**PENALTIES**

Customers whose gas use exceeds the maximum daily contracted requirements shall be subject to a charge at least equal to any payment the District is required to make to its gas supplier as a result of such unauthorized use, but in no event will the charge be less than \$7 per DTH of unauthorized gas use in addition to monthly billing rates stated in this schedule. Penalties may be waived at District option, but in all cases customers will be required to contract for a higher maximum daily requirement.

**STRANDED COSTS**

Customers who have received firm service for a period of three years or more and who convert to interruptible service or transportation service shall be subject to the "Stranded pipeline/supply costs" monthly charge as provided for under the District's rate "Schedule FT, Firm Gas Transportation Service". This provision shall also apply where there has been continuous service for three years or more at the same service address under one or more ownership changes.

**METROPOLITAN**  
UTILITIES DISTRICT

**SCHEDULE D**  
**COMPRESSED-NATURAL-GAS (CNG) VEHICLE SERVICE**  
**EFFECTIVE JANUARY 2, ~~2023~~2024**

(Supersedes Schedule D effective January 2, ~~2021~~2023)

**AVAILABILITY**

1. This rate schedule shall apply to customers utilizing compressed natural gas (CNG) in natural gas-powered vehicles (NGV) obtained at an M.U.D. CNG filling station.
2. This schedule shall also apply to natural gas separately metered and compressed on customer premises at customer expense. Natural gas compressed on customer premises that is not separately metered shall be billed at the prevailing rate of the primary meter.
3. Gas service under this schedule is available only for the above purpose and to the extent that gas is available therefore pursuant to the Rules and Regulations of the District at the time service is requested.

**RATE**

**1. M.U.D. Filling Station - Compression by the District**

**Base Commodity Charge** – All gas delivered:

Per Therm*	<del>\$0.8106</del> <u>\$0.8309</u>
Per GGE**	<del>\$1.0133</del> <u>\$1.0387</u>

**Commodity Charge** – All gas delivered      Weighted Avg Cost of Gas (WACOG)

**2. Customer Fill Station - Compression by the Customer**

**Service Charge** - The service charge applies only to natural gas separately metered and compressed on customer premises. The service charge will be the applicable Schedule A, Schedule B, or submeter charge per month.

**Base Commodity Charge** – All gas delivered:

Per Therm*	<del>\$0.1664</del> <u>\$0.1706</u>
Per GGE**	<del>\$0.2080</del> <u>\$0.2132</u>

**Commodity Charge** – All gas delivered      Weighted Avg Cost of Gas (WACOG)

\*The quantity of gas delivered hereunder shall be expressed in therms. The term, "therm", as used in this rate schedule means the quantity of gas which contains one hundred thousand British thermal units (100,000 Btu). The number of therms delivered hereunder in any month shall be determined by multiplying the volume of gas in cubic feet by the average heating value of the gas, expressed in Btu per cubic foot, as applicable for such month, and dividing this product by 100,000.

\*\*For billing purposes, when necessary, the conversion factor for converting therms to gasoline gallon equivalent (GGE) shall be 0.8 gallon per one therm.

**GAS COST**

The Base Commodity Charge will be combined with the Weighted Average Cost of Gas (WACOG) for a combined Commodity Billing Rate. WACOG shall be derived in accordance with Schedule GCA, Gas Cost Adjustment Provisions. Billing rates per therm shall be calculated and rounded to four places, following generally accepted rounding rules. Billing rates per GGE shall be calculated and rounded up to two places where pumps carry rates to two places.

Rates included herein are subject to adjustment for monthly changes in the cost of natural gas to the District as provided for in gas rate Schedule GCA, Gas Cost Adjustment Provisions. For current billing rate and/or billing rate history contact the District's Marketing or Rate Divisions.

**FLEXIBLE MARKET PRICING**

Flexible Market Pricing may apply to vehicular natural gas volumes delivered via District owned public fill stations. On a monthly basis, District management can alter the retail price at the pump. The retail price at the pump may be decreased or increased, considering excise credits, competing fuel prices, and local market pricing for CNG. No retail price for CNG sales shall be lower than the District's commodity cost of purchased gas plus margin of \$0.75/GGE (or \$0.60 per therm), prior to the addition of all applicable taxes and statutory payments.

**TAXES**

The District is required to collect Federal Excise CNG Fuel Tax and State of Nebraska Compressed Fuel Tax. The applicable rates will be incorporated into the combined Commodity Billing Rate. In addition, all applicable Federal, State and local taxes will be charged.

**PAYMENT**

The monthly bill will be rendered at the above net rate.

**EMERGENCY PRIORITY**

Gas service under this schedule is subject to curtailment to meet fuel requirements of higher emergency priority customers. Emergency priority customers shall be determined by the District or as directed by other governmental authority having jurisdiction.

**METROPOLITAN**  
UTILITIES DISTRICT  
**SCHEDULE NO. 3**  
**INTERRUPTIBLE GAS SERVICE**  
**EFFECTIVE JANUARY 2,**  
**~~2023~~2024**

**(Supersedes Schedule No. 3 effective January 2,**  
**~~2017~~2023)**

**AVAILABILITY**

This rate schedule is available to customers purchasing gas from the District who agree to use for a period of not less than one year, and who have satisfied the District of their ability and willingness to discontinue the use of said gas, during periods of curtailment or interruption, by substituting the use of standby facilities, or plant shutdown.

1. Gas service under this schedule is available only for the purposes and to the extent that gas is available therefor pursuant to the Rules and Regulations of the District at the time application is made.
2. Availability of service under this schedule is limited to customers whose gas-burning equipment is at a location abutting upon District gas mains of adequate capacity to render such service or is sufficiently near a main where an adequate supply exists so that at the discretion of the District an extension of gas main is justified.
3. The gas supplied under this schedule will be separately metered and not used inter-changeably with gas supplied under any other schedule and is subject to all terms and conditions of the District's Standard Form written contract to be executed by the customer prior to commencement of any main extension for delivery of gas hereunder.

**METERING AND BILLING UNITS**

District gas meters register in units of cubic feet. For billing purposes, gas meters are read in units of either 100 cubic feet (CCF) or 1,000 cubic feet (Mcf). In most cases, the index readings from the meter can be directly applied in the billing process. In some instances, direct readings from the meter index require correction for pressure and/or temperature. Some of the district's larger commercial/industrial meters are equipped with correction devices including an additional index showing the corrected usage.

Supercompressibility Adjustment – Due to the behavior of gas molecules under high pressure, additional correction to index readings in certain situations will be applied. For example, meter readings for customers receiving gas metered at pressures equal to or greater than 40 psig or for customers receiving gas metered at pressures equal to or greater than 10 psig with annual usage of 50,000 Mcf or more shall be adjusted for supercompressibility. The supercompressibility adjustment factor shall be specifically identified on the customer's monthly bill.

Billing Units – The billing unit under this rate schedule is a decatherm [one million British thermal units (Btu)]. The number of decatherms billed hereunder in any month shall be determined by multiplying the volume of gas in cubic feet by the average heating value of the gas, expressed in Btu per cubic foot as applicable for such month and dividing this product by one million.

Daily Meter Readings – Arrangements for the installation of telemetering equipment and phone line for providing daily meter readings using the Metretek System must be made to the satisfaction of the District.

**RATE - MONTHLY BILLING**

- Service Charge \$1,078.00
- First 5,000 decatherms ~~\$.6812~~ \$.6982 per Decatherm
- Over 5,000 decatherms ~~\$.5592~~ \$.5732 per Decatherm

**GAS COST**

The Base Commodity Charge will be combined with the Weighted Average Cost of Gas (WACOG) for a combined Commodity Billing Rate. WACOG shall be derived in accordance with Schedule GCA, Gas Cost Adjustment Provisions.

Rates included herein are subject to adjustment for monthly changes in the cost of natural gas to the District as provided for in gas rate Schedule GCA, Gas Cost Adjustment Provisions. For current billing rate and/or billing rate history contact the District’s Marketing or Rate Divisions.

**MINIMUM MONTHLY BILL**

\$1,078.00 Net - Except that minimum bills will be waived for billing months of November through March providing the meter registers zero consumption for the billing period.

**STATUTORY PAYMENT TO CITIES**

Under Sections 14-2138 and 2139, R.R.S.1997, the District is required to pay to each city or village two (2) percent of retail sales of gas. Two (2) percent has not been included in the above rate. Therefore, the rate for all customers residing inside corporate limits is 2 percent greater than the rate indicated above.

**PAYMENT**

The monthly bill will be rendered at the above net rate.

**MONTHLY NOMINATION**

1. Each large volume (requirements of 200,000 cubic feet or more per day) customer must notify the District 3 workdays prior to the first of the month of its intent to burn an alternate fuel in lieu of natural gas for the month. If no such notification is made, customer is committed to using natural gas when available for customer's monthly energy requirements.



## **MONTHLY NOMINATION (continued)**

2. To the extent that a large volume customer uses an alternate fuel to displace natural gas without the proper notification to District as outlined in paragraph 1, a nomination penalty shall apply.
3. The nomination penalty shall be the highest nomination charge that District must pay to its natural gas suppliers for the month plus \$.05 per decatherm and shall be applied to the difference between customer's average monthly gas use for the previous twelve months and the actual gas used during the month in which penalty applies.

## **TURN-ON CHARGE**

A turn-on charge will be required upon application for gas service.

## **PRIORITY**

Gas supplied under this schedule will have priority assigned in accordance with effective gas tariffs under which District purchases and/or transports gas, but normally gas shall be curtailed under this schedule before curtailment occurs on any other District rate schedule.

## **EMERGENCY PRIORITY**

Gas service under this schedule is subject to curtailment to meet fuel requirements of higher emergency priority customers. Emergency priority customers shall be determined by District or as directed by other governmental authority having jurisdiction.

## **PENALTIES**

Customers who fail to curtail the use of gas hereunder when requested shall be subject to a charge at least equal to any payment the District is required to make to its gas supplier as a result of such unauthorized use, but in no event will the charge be less than \$7 per DTH of unauthorized use in addition to monthly billing rates stated in this schedule.

**METROPOLITAN**  
UTILITIES DISTRICT

**SCHEDULE F**  
**FIXED RATE GAS SERVICE**  
**EFFECTIVE JANUARY 2,**  
**~~2023~~2024**

**(Supersedes Schedule F effective January 2,**  
**~~2020~~2023)**

**AVAILABILITY**

This rate schedule is available to customers contracting for the purchase of fixed quantities of natural gas at a fixed price for up to a 48-month period.

1. Customer must be purchasing gas under one of the following commercial or industrial gas rate schedules.
  - Schedule B, Commercial or Industrial Firm Gas Service
  - Schedule C, Large Volume Firm Gas Service
  - Schedule No. 3, Interruptible Gas Service
  - Schedule CS – 1, Contract Gas Service
2. Customer must have total gas requirements of not less than 100 decatherms per day. (Multiple meters/sites may be combined to meet this requirement.)
3. Remote automatic meter reading facilities must be installed to District specifications for each meter combined under the contract. Installation will be at customer expense.
4. Customer must have authorized personnel available during normal working hours that can accept or reject the fixed price offered upon notice from the District. (The Gas Operations Department will solicit offers from gas marketers and other suppliers for packages of gas to meet the customers' requests. Gas Operations will advise customers of the best offer available and of the window available for acceptance.)

**RATE – MONTHLY BILLING**

The contract "unit cost of gas" (UCOG) purchased by the District for this service will displace the variable "weighted-average cost of gas" (WACOG) included in the commodity charge of District rate schedules as adjusted by the monthly GCA (gas cost adjustment). All other charges in the applicable rate schedules will apply to this service. A monthly administrative charge will also apply.

The District reserves the right to pass on any additional tax or surcharge that may be imposed on the sale or transportation of gas under this rate schedule by any governmental or regulatory body during the course of the contract year.

Administrative charges will be applied per month per contract. Monthly charges for billing purposes by rate schedule:

**Schedule B:**

- Basic administrative charge (one delivery point) \$98.00
- Additional administrative charge per each additional delivery point \$49.00
- Schedule B service charge – per meter \$18.62
- Schedule B commodity charges (excluding commodity WACOG) to be added to the contract UCOG:

Per Dth	Nov – Mar	Apr - Oct
First 250 Dth	\$ <del>1.5880</del> <u>1.6280</u>	\$ <del>.7750</del> <u>.794</u>
		<u>0</u>
Over 250 Dth	\$ <del>1.4310</del> <u>1.4670</u>	\$ <del>.6200</del> <u>.636</u>
		<u>0</u>

**Schedule C:**

- Basic administrative charge (one delivery point) \$98.00
- Additional administrative charge per each additional delivery point \$49.00
- Schedule C Commodity Charge to be added to the contract UCOG ~~\$0.5592/Dth~~\$0.5732/Dth

(Note: Firm rates are subject to adjustment for changes in pipeline/marketer reservation/surcharges.)

**Schedule 3:**

- Basic administrative charge (one delivery point) \$98.00
- Additional administrative charge per each additional delivery point \$49.00
- Schedule 3 Service Charge – per meter \$1,078.00
- Non gas component of Schedule 3 commodity charge to be added to the contract UCOG:
  - First 5,000 Dth per month \$ ~~0.6812~~0.6982
  - Over 5,000 Dth per month \$ ~~0.5592~~0.5732

**Schedule CS – 1:**

- Basic administrative charge (one delivery point) \$98.00
- Additional administrative charge per each additional delivery point \$49.00
- Other charges as contracted plus UCOG contract price \$18.62



## **ADDITIONAL CHARGES**

Actual volumes purchased will be balanced to contract quantities. Additional charges may apply:

- If actual volumes used are less than contract volumes for the billing month and
- the contract UCOG is greater than the system WACOG for the month, an additional charge equal to the contract UCOG minus the system WACOG per decatherm will apply to the variance of actual volumes from contract volumes.
- the contract UCOG is less than the system WACOG for the month no additional charges or credits will be assigned to the customer
- If a variance is caused by District curtailment, no additional charges will apply.
  
- If actual volumes used are greater than contract volumes for the billing month, actual volumes in excess of contract volumes will be billed at the customer's applicable underlying rate schedule, i.e., rate schedule B, C, No. 3, or CS-1.

## **STATUTORY PAYMENT TO CITIES**

Under Sections 14-2138 and 2139, R.R.S.1997, the District is required to pay to each city or village two (2) percent of retail sales of gas. Two (2) percent has not been included in the above rate. Therefore, the rate for all customers residing inside corporate limits is 2 percent greater than the rate indicated above. The UCOG contract price will also be adjusted to include two (2) percent for city or village when applicable.

## **OTHER TERMS AND CONDITIONS**

All terms and conditions of the customers' applicable underlying rate schedules that are not modified by the above shall apply to gas service rendered under this rate schedule.

**METROPOLITAN**  
UTILITIES DISTRICT

**SCHEDULE FT**  
**FIRM GAS TRANSPORTATION SERVICE**  
**EFFECTIVE JANUARY 2, ~~2023~~2024**

(Supersedes Schedule FT effective January 2, ~~2020~~2023)

**AVAILABILITY**

Transportation service under this rate schedule is available to customers purchasing gas from third-party suppliers and delivering said gas to District's system at town border stations (TBS) for transportation and delivery to customer premises, providing:

1. Customer's premises are at a location abutting upon District gas mains of adequate capacity to render such service.
2. Customer can make all necessary arrangements, at customer's expense, to cause delivery of customer's gas to District town border stations as needed.
3. The Receipt Point must be at a town border station to be designated by District. The Delivery Point must be a District designated meter on customer premises.
4. Customer shall enter into written contract for firm transportation services which shall include but not be limited to all terms and conditions, of this rate schedule. Term of contract shall be for not less than one year.

**RATE - MONTHLY BILLING**

The monthly charge for transportation of natural gas under this rate schedule shall include the following:

1. Customer Charge
  - First Meter \$100.00
  - Additional Meters \$50.00
2. Demand Charges:
  - System Costs \$5.50 per DTH of maximum daily
  - Stranded Pipeline/Supply costs\* ~~\$3.71~~\$3.78 per DTH of maximum daily contract requirements

*\* This charge shall apply for a period of five years from date that a firm service sales customer converts to firm transportation. The District may release capacity to the customer at a rate equal to this charge for up to 60% of the Customers Peak Day usage.*

3. Commodity Charge ~~\$0.5592~~\$0.5732 per DTH delivered
4. Minimum Monthly Bill - Customer charge plus total applicable demand charges.

## **APPLICATION FEE AND OTHER CHARGES**

In addition to the monthly charges set forth above, Customer shall pay:

1. Application Fee - \$250.00 with each Request for Transportation Service, as provided in the Other Terms and Conditions of this rate schedule
2. Telemeter and Phone Line -- all costs related to telemetering and any other facilities constructed or installed to provide Transportation Service may be charged to the Customer
3. Directly Assignable Costs - any pipeline demand charges previously related to the Customer's requirements that the District must continue to pay even after the Customer begins receiving Transportation Service and any fees paid to others by the District related to such service providing such charges are not included in the above monthly demand charges.

## **PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within fifteen (15) days of date of bill, unpaid gas charges are subject to a late payment charge of four (4) percent. An additional late payment charge of .5 percent per month will be charged on the portion of any account in arrears two or more months.

## **EMERGENCY PRIORITY**

Gas transportation under this schedule is subject to curtailment to meet fuel requirements of higher emergency priority customers. Emergency priority customers shall be determined by District or as directed by other governmental authority having jurisdiction.

## **PENALTIES**

Customers are required to enter into an End User Agreement with Northern Natural Gas (NNG.) Customer shall make daily nominations to NNG and will settle all imbalances with NNG.

MUD will provide Customer two measurement emails daily to assist in tracking daily usage. The first email will occur approximately at 5:30 AM and the second email will occur at approximately 10:40 and will have the daily total in Mcf or Ccf depending on meter size. If the automatic emails system does not send the email then the Customer will be required to base usage off historical numbers or projected use. The District will not be responsible for any NNG charges due to this automatic system failing to send these emails. The District will pass any charges incurred from Northern directly to the Customer and provide support of such charges.

## **EMERGENCY SALES**

Emergency Sales Service will be available only if, in the sole discretion of the District, it can be provided without jeopardizing service to other sales and transportation customers of the District. In emergency situations, on a reasonable-efforts basis, the District will purchase and resell to the customer as much gas as the customer nominates, and the District can obtain from its suppliers.

The rate for emergency-sales-service gas shall be agreed upon at time of nomination and shall include all incremental costs associated with obtaining the replacement gas supplies including the cost of operating District peakshaving facilities if necessary, plus the District's normal firm service sales rate margin over

commodity cost of gas. In no case will the rate be less than the District's current highest firm-service gas-sales rate plus one dollar (\$1.00) per MMBtu.

## DEFINITIONS

The following terms may be used in this rate schedule and/or in contracts, applications for service and in other documents and communications (oral or written) necessary to the providing of service under this rate schedule:

- **Balance.** The term "balance" or "balancing" shall mean Customer's obligation to make deliveries equal Receipts.
- **Billing Day.** The term "billing day" shall mean the period of time commencing at 9:00 a.m. pipeline time and ending at 9:00 a.m. pipeline time the following day.
- **Billing Month.** The term "billing month" shall mean the period from 9:00 a.m. pipeline time of the first day of the calendar months to 9:00 a.m. pipeline time of the first day of the succeeding calendar month, unless a different period of time is specified in the Contract.
- **British Thermal Unit (Btu).** The term "British thermal unit" ("Btu") shall mean the amount of heat required to raise the temperature of one (1) pound of water from fifty-nine degrees Fahrenheit to sixty degrees Fahrenheit at a constant pressure of 14.73 psia.
- **CST.** The term "CST" shall mean central standard time or central daylight time, whichever is applicable.
- **Capacity.** The term "capacity" shall mean the maximum gas load which any part of the District's distribution system is capable of carrying on a sustained basis under operating conditions relevant to the determination.
- **Commodity Charge.** The term "commodity charge" shall mean that portion of the amount to be paid per Billing Month by Customer for Transportation Service which is based upon the total quantity of transportation gas delivered to Customer at Delivery Point.
- **Contract.** The term "contract" shall mean a written agreement, substantially in the form attached to this rate schedule as Exhibit A, providing for Transportation Service, which is executed by District and Customer, and any exhibits, attachments, and/or amendments thereto.
- **Critical Day.** The term "critical day" shall mean any day on which, in the sole judgment of District, curtailment of transportation gas or interruption of Transportation Service may be required due to capacity constraint, supply shortage, or as a result of any consideration reasonably determined by District. District shall make every effort to give Customer notice of Critical Day by 8:00 a.m. prior to the beginning of the Gas Day, but it may give such notice at any time.
- **Cubic Foot.** The term "cubic foot" shall mean the volume of gas which occupies one cubic foot when such gas is at a temperature of sixty degrees Fahrenheit (60°F), and at a pressure of fourteen and



seventy-three hundredths pounds per square inch absolute (14.73 psia) and corrected for deviation from ideal gas behavior.

- **Curtailment.** The term "curtailment" shall mean a reduction of the quantities of gas which District would otherwise deliver to Customer, whether due to capacity constraint, supply shortage, force majeure, or any other cause reasonably determined by District.
- **Curtailment Quantity.** The term "curtailment quantity" shall mean the lesser of the Daily Nominated Quantity, the daily Receipts, or the daily quantity of transportation gas allowed by District to be consumed by Customer during the curtailment period.
- **Customer.** The term "customer" shall mean any person, association, firm, public or private corporation, or any agency of the federal, state, or local government or legal entity responsible by law for payment for Transportation Service.
- **Customer Charge.** The term "customer charge" shall mean that portion of the amount to be paid per Billing Month by Customer for Transportation Service which is a fixed amount without regard to the Daily Contract Requirement or quantity of gas delivered.
- **Daily Contract Requirement.** The term "daily contract requirement" shall mean the maximum daily quantity of transportation gas District agrees to transport to Customer at Delivery Point under this rate schedule, as specified in the Contract. Minimum Daily Contract Requirement for Schedule FT shall be 200 Dth/day.
- **Daily Nominated Quantity.** The term "daily nominated quantity" shall mean the daily volume of transportation gas nominated by Customer to District for transportation from Receipt Point to Delivery Point.
- **Day.** The term "day" shall mean a period of time beginning at 12:00 Midnight pipeline time on the starting day and ending at 12:00 Midnight pipeline time on the following day.
- **Decatherm.** The term "decatherm" or "DTH" shall mean ten therms (1,000,000 Btu).
- **Deliveries.** The term "deliveries" shall mean the quantity of transportation gas delivered by District to Customer on a daily basis at Delivery Point.
- **Delivery Point.** The term "delivery point" or "point of delivery" shall mean the location where District's gas distribution facilities interconnect with Customer's facilities and where Customer and District have agreed that transportation gas received at Receipt Point will be delivered by District to Customer.
- **Demand Charge.** The term "demand charge" shall mean that portion of the amount to be paid per Billing Month by Customer for Transportation Service which is based upon Customer's FT Daily Contract Requirement as set forth in the Contract.
- **District.** The term "District" shall mean Metropolitan Utilities District.

- **Gas.** The term "gas" shall mean natural gas that is received by District from a transporting pipeline at Receipt Point and delivered by District to Customer at Delivery Point. In addition, the term shall include liquefied natural gas and/or propane introduced by District into its gas distribution system and delivered to Customer as the equivalent of sales or transportation gas that Customer is otherwise entitled to have delivered by District.
- **Gas Day.** The Term "gas day" shall mean the period of time commencing at 9:00 a.m. pipeline time on the starting day and ending at 9:00 a.m. on the following day.
- **FT.** The term "FT" shall mean Firm Gas Transportation.
- **IT.** The term "IT" shall mean Interruptible Gas Transportation.
- **Imbalance.** The term "imbalance" shall mean the difference between the quantity of transportation gas received by District from the transporting pipeline at Receipt Point for Customer's account and the quantity of transportation gas delivered by District to Customer at Delivery Point. Imbalances will be handled by Northern Natural Gas.
- **Interruption.** The term "interruption" shall mean the total cessation of Transportation Service provided under this rate schedule, whether due to capacity constraint, supply shortage, force majeure, or any other cause reasonably determined by District.
- **Mcf.** The term "Mcf" shall mean one thousand (1,000) cubic feet of natural gas.
- **MMBtu.** The term "MMBtu" shall mean one million (1,000,000) Btu.
- **Natural Gas.** The term "natural gas" shall mean any mixture of hydrocarbons or of hydrocarbons and non-combustible gases, in a gaseous state, consisting principally of methane.
- **Negative Daily Imbalance.** The term "negative daily imbalance" shall mean the difference between daily Receipts and the greater quantity of daily Deliveries.
- **Negative Monthly Imbalance.** The term "negative monthly imbalance" shall mean the difference, at any time during a Billing Month, between cumulative daily Receipts and the greater quantity of cumulative daily Deliveries.
- **Northern Natural Gas Company.** Northern Natural Gas Company or "Northern" is the owner and operator of the interstate natural gas pipeline which transports gas from various producing basins and pipeline interconnects to District's gas distribution system.
- **Nomination.** The term "nomination" shall mean the quantity of gas that District is requested to transport on a daily basis from Receipt Point to Delivery Point.
- **Pipeline Time.** The term "pipeline time" will coincide with either Central Standard Time or Central Daylight Time, whichever is in effect at that particular time of the year.

- **Positive Daily Imbalance.** The term "positive daily imbalance" shall mean the difference between daily Receipts and the lesser quantity of daily Deliveries.
- **Positive Monthly Imbalance.** The term "positive monthly imbalance" shall mean the difference, at any time during a Billing Month, between cumulative daily Receipts and the lesser quantity of cumulative daily Deliveries.
- **Receipts.** The term "receipts" shall mean the quantity of transportation gas the District receives on a daily basis from Customer at Receipt Point.
- **Receipt Point.** The term "receipt point" shall mean the point at which Customer delivers gas to District.
- **Service.** The term "service" or "transportation service" shall mean the availability of the transportation of gas by District to Customer whether or not gas is actually transported.
- **Therm.** The term "therm" shall mean 100,000 Btu.
- **Town Border Station (TBS).** The term "town border station" shall mean the physical location where District's distribution system interconnects with Northern's interstate pipeline. The TBS generally consists of facilities to regulate gas pressure and measure volumes of gas.
- **Transportation.** The term "transportation" shall mean transportation of gas.
- **Year.** The term "year" shall mean a period of 365 consecutive days; provided, however, that any such year which contains a date of February 29 shall consist of 366 consecutive days.

#### **OTHER TERMS AND CONDITIONS**

- Filing Transportation will not commence until the Customer files with the District completed End User Agreement on Northern Natural Gas and Application for Firm Service Gas Transportation.
- Gas Quality Gas purchased by Customer from a third party for Transportation by the District shall be commercially clean and merchantable. Such gas shall be comparable in quality to and interchangeable with gas purchased from the District's pipeline supplier. The District reserves the right to refuse to accept gas that does not meet the District's quality specifications.

The District reserves the right to commingle Customer's gas with other gas suppliers including propane and liquefied natural gas.

- Thermal Balancing The quantity of transportation gas received by the District from the transporting pipeline and the quantity of transportation gas delivered to the Customer under the applicable Schedule shall be thermally balanced. The transportation pipeline's statement as to volumes, heating value, and thermal balancing shall be taken as conclusive.
- Liability

- General. Gas shall be and shall remain the property of the customer while being transported and delivered by the District. The District shall not be liable to the Customer for any loss arising from or out of gas Transportation Service while in the District's system or for any other cause, except for gross or willful negligence of the District's own employees.
- Insurance. The Customer shall be responsible for determining the extent of and maintaining all insurance it deems necessary to protect its property interest in such gas before, during, and after receipt by the District.

- Measurement

- The quantity of gas transported on a daily basis shall be determined by District gas meter located at Delivery Point. The quantity of gas measured shall be expressed in MMBtu's. The number of MMBtu's transported by District from Receipt Point to Delivery Point in any day shall be determined by multiplying the volume of gas in cubic feet by the average heating value of the gas, expressed in Btu's per cubic foot, as applicable for such day and dividing this product by one million. If, for any reason, metering equipment is out of service or out of repair so that the quantity of gas delivered is not correctly indicated by the reading thereof, the gas delivered during such period shall be estimated by the parties on the basis of the best data available using the first of the following methods which is feasible:

By using the registration of any check measuring equipment installed and accurately registering;  
or

By correcting the error if the percentage of error is ascertainable by calibration, test or mathematical calculations; or

By estimating the quantity of delivery by deliveries during a preceding period under similar conditions when the meter was registering accurately.

- Automatic meter reading equipment (AMR) shall be required at Delivery Point prior to the commencement of any transportation services provided for in this Rate Schedule. Customer shall be invoiced the estimated cost associated with the procurement and installation of said automatic meter reading equipment. Upon remittance, District shall purchase and install automatic meter reading equipment at the Delivery Point. Customer shall furnish an acceptable location for installation of automatic meter reading equipment, as well as provide for the necessary electrical and telephone connections. Customer shall be responsible for any and all one-time and recurring charges associated with electrical or telephone service required for the installation, and any electrical or telephone service required shall list Customer as the customer. Upon completion of the automatic meter reading installation, District shall determine total installation cost and invoice or credit customer, whichever is applicable, the difference between the total and estimated cost.
- If directed by the District, the Customer shall read the District's gas meter each day at the time specified by the District and report such reading to the District.

- Request for Service
  - Requests for service under this rate Schedule must be made by filing with the District the information required on the form entitled "Request for Firm Gas Transportation Service" as attached to this rate schedule as Application for Firm Service Gas Transportation.
  - A Request for Service will not be approved until all the information required by the Request for Transportation Service has been delivered to the District and the Application Fee of \$250.00 has been paid. The District reserves the right to request additional information from any applicant, but requesting such information will not normally delay service if the applicant has otherwise provided all of the information and paid the fee as required.
  - After a Request for Transportation Service is approved, the applicant shall have one year from notification of approval to execute and send to the District a Contract for Transportation Service. If such Contract is not executed by the Customer and received by the District within such period, the Request for Transportation Service shall be deemed null and void. Transport of gas shall begin no sooner than two (2) months after execution of a Contract for Transportation Service.
- **Nominations** Customer, or its agent, shall make daily nominations to Northern Natural Gas as required by the pipeline. MUD will be point operator for delivery to our system and will confirm all nominations.
- **Capacity Constraints** Service under this Schedule is subject to the physical, operational, and contractual constraints of the District's gas system, pertinent to the Delivery Points and Receipt Points.
- **Customer's Balancing Obligation** Customer shall use an end User Agreement with Northern Natural Gas then all Balancing shall be between Customer and Northern. The District will pass any charges incurred from Northern directly to the Customer and provide support of such charges.
- **Failure to Comply** If the Customer fails to comply with or perform any of the obligations on its part to be complied with or performed under this Rate Schedule, the District shall have the right to give Customer written notice of the District's intention to terminate the Transportation on account of such failure, then the District shall have the right to terminate such Transportation at the expiration of five days after the giving of said notice, unless within five days the Customer shall make good such failure. Termination of such Transportation for any such cause shall be a cumulative remedy as to the District, and shall not release the Customer from its obligation to make payment of any amount or amounts due or to become due from the Customer to the District under this rate Schedule. In order to resume Transportation after termination of service hereunder, it shall be necessary for Customer to file a new request.

**METROPOLITAN**  
UTILITIES DISTRICT

**SCHEDULE IT**  
**INTERRUPTIBLE GAS TRANSPORTATION SERVICE**  
**EFFECTIVE JANUARY 2, ~~2023~~2024**

(Supersedes Schedule IT effective January 2, ~~2019~~2023)

**AVAILABILITY**

Transportation service under this rate schedule is available to customers purchasing gas under interruptible gas rate schedule No. 3 and other customers who have satisfied the District of their ability and willingness to discontinue the use of natural gas during periods of curtailment or interruption by substituting standby facilities or suffering Plant shutdown providing:

1. Customer's premises are at a location abutting upon District gas mains of adequate capacity to render such service.
2. Customer can make all necessary arrangements, at customer's expense, to cause delivery of customer's gas to District town border stations when needed.
3. The Receipt Point must be at a town border station to be designated by District. The Delivery Point must be a District designated meter on customer premises.
4. Customer shall enter into written contract for transportation services which shall include, but not be limited to provisions on delivery, measurement, notification, billing procedures, balancing procedures, balancing penalties, and liability. Term of contract is to be at District option but not more than one year.

**RATE - MONTHLY BILLING**

1. Customer Charge
  - First Meter \$100.00
  - Additional Meters \$50.00
2. Service Charge \$1,078.00 per Month
3. Commodity Charge ~~\$0.5592~~\$0.5732 per Dth Delivered
4. Minimum Monthly Bill – Customer charge plus total applicable service charges.

## **APPLICATION FEE AND OTHER CHARGES**

In addition to the monthly charges set forth above, Customer shall pay:

1. Application Fee - \$250.00 with each Request for Transportation Service, as provided in the Other Terms and Conditions of this rate ~~schedule~~schedule.
2. Telemeter and Phone Line -- all costs related to telemetering and any other facilities constructed or installed to provide Transportation Service may be charged to the ~~Customer~~Customer.
3. Directly Assignable Costs - any pipeline service charges previously related to the Customer's requirements that the District must continue to pay even after the Customer begins receiving Transportation Service and any fees paid to others by the District related to such service providing such charges are not included in the above monthly service charges.

## **PAYMENT**

The monthly bill will be rendered at the above net rate. If not paid within fifteen (15) days of date of bill, a gross bill of 4% higher than the net bill will be due and payable.

## **PRIORITY**

When curtailment is necessary due to capacity restrictions on District's distribution system gas transported under this rate schedule will have the same priority as gas purchased or which would normally be purchased by customer under the applicable interruptible rate schedule.

When curtailment of service to interruptible-sales customers is necessary due to restrictions on District gas supply, transportation of customer owned gas will continue under this rate schedule providing customer's gas is delivered to District TBS.

## **EMERGENCY PRIORITY**

Gas transportation under this schedule is subject to curtailment to meet fuel requirements of higher emergency priority customers. Emergency priority customers shall be determined by District or as directed by other governmental authority having jurisdiction.

## **PENALTIES**

Customers are required to enter into an End User Agreement with Northern Natural Gas (NNG.) Customer shall make daily nominations to NNG and will settle all imbalances with NNG.

MUD will provide Customer two measurement emails daily to assist in tracking daily usage. The first email will occur approximately at 5:30 AM and the second email will occur at approximately 10:40 and will have the daily total in Mcf or Ccf depending on meter size. If the automatic emails system does not send the email, then the Customer will be required to base usage off historical numbers or projected use. The District will not be responsible for any NNG charges due to this automatic system failing to send these emails.

On any day on which a Critical Day has been declared by the District, Customers who fail to curtail the use of gas hereunder when requested shall be subject to a charge at least equal to any payment the District is required to make to its gas supplier as a result of such unauthorized use, but in no event will the charge be less than \$7 per DTH of unauthorized gas use in addition to monthly billing rates stated in this schedule.

If the District incurs increased gas costs due to a Customer's Imbalance, those costs will be passed on to the Customer.

### **EMERGENCY SALES**

Emergency Sales Service will be available only if, in the sole discretion of the District, it can be provided without jeopardizing service to other sales and transportation customers of the District. In emergency situations, on a reasonable-efforts basis, the District will purchase and resell to the customer as much gas as the customer nominates, and the District can obtain from its suppliers.

The rate for emergency-sales-service gas shall be agreed upon at time of nomination and shall include all incremental costs associated with obtaining the replacement gas supplies including the cost of operating District peakshaving facilities, if necessary, plus the District's normal interruptible service sales rate margin over commodity cost of gas. In no case will the rate be less than the District's current interruptible service gas-sales rate.

### **DEFINITIONS**

The following terms may be used in this rate schedule and/or in contracts, applications for service and in other documents and communications (oral or written) necessary to the providing of service under this rate schedule:

- **Balance.** The term "balance" or "balancing" shall mean Customer's obligation to make deliveries equal Receipts.
- **Billing Day.** The term "billing day" shall mean the period of time commencing at 9:00 a.m. pipeline time and ending at 9:00 a.m. pipeline time the following day.
- **Billing Month.** The term "billing month" shall mean the period from 9:00 a.m. pipeline time of the first day of the calendar months to 9:00 a.m. pipeline time of the first day of the succeeding calendar month, unless a different period of time is specified in the Contract.
- **British Thermal Unit (Btu).** The term "British thermal unit" ("Btu") shall mean the amount of heat required to raise the temperature of one (1) pound of water from fifty-nine degrees Fahrenheit to sixty degrees Fahrenheit at a constant pressure of 14.73 psia.
- **CST.** The term "CST" shall mean Central Standard Time or Central Daylight Time, whichever is applicable.
- **Capacity.** The term "capacity" shall mean the maximum gas load which any part of the District's distribution system is capable of carrying on a sustained basis under operating conditions relevant to the determination.



- **Commodity Charge.** The term "commodity charge" shall mean that portion of the amount to be paid per Billing Month by Customer for Transportation Service which is based upon the total quantity of transportation gas delivered to Customer at Delivery Point.
- **Contract.** The term "contract" shall mean a written agreement, substantially in the form attached to this rate schedule as Exhibit A, providing for Transportation Service, which is executed by District and Customer, and any exhibits, attachments, and/or amendments thereto.
- **Critical Day.** The term "critical day" shall mean any day on which, in the sole judgment of District, curtailment of transportation gas or interruption of Transportation Service may be required due to capacity constraint, supply shortage, or as a result of any consideration reasonably determined by District. District shall make every effort to give Customer notice of Critical Day by 8:00 a.m. prior to the beginning of the Gas Day, but it may give such notice at any time.
- **Cubic Foot.** The term "cubic foot" shall mean the volume of gas which occupies one cubic foot when such gas is at a temperature of sixty degrees Fahrenheit (60°F), and at a pressure of fourteen and seventy-three hundredths pounds per square inch absolute (14.73 psia) and corrected for deviation from ideal gas behavior.
- **Curtailment.** The term "curtailment" shall mean a reduction of the quantities of gas which District would otherwise deliver to Customer, whether due to capacity constraint, supply shortage, force majeure, or any other cause reasonably determined by District.
- **Curtailment Quantity.** The term "curtailment quantity" shall mean the lesser of the Daily Nominated Quantity, the daily Receipts, or the daily quantity of transportation gas allowed by District to be consumed by Customer during the curtailment period.
- **Customer.** The term "customer" shall mean any person, association, firm, public or private corporation, or any agency of the federal, state, or local government or legal entity responsible by law for payment for Transportation Service.
- **Customer Charge.** The term "customer charge" shall mean that portion of the amount to be paid per Billing Month by Customer for Transportation Service which is a fixed amount without regard to the Daily Contract Requirement or quantity of gas delivered.
- **Daily Contract Requirement.** The term "daily contract requirement" shall mean the maximum daily quantity of transportation gas District agrees to transport to Customer at Delivery Point under this rate schedule, as specified in the Contract.
- **Daily Nominated Quantity.** The term "daily nominated quantity" shall mean the daily volume of transportation gas nominated by Customer to District for transportation from Receipt Point to Delivery Point.
- **Day.** The term "day" shall mean a period of time beginning at 12:00 Midnight pipeline time on the starting day and ending at 12:00 Midnight pipeline time on the following day.

- **Decatherm.** The term "decatherm" or "DTH" shall mean ten therms (1,000,000 Btu).
- **Deliveries.** The term "deliveries" shall mean the quantity of transportation gas delivered by District to Customer on a daily basis at Delivery Point.
- **Delivery Point.** The term "delivery point" or "point of delivery" shall mean the location where District's gas distribution facilities interconnect with Customer's facilities and where Customer and District have agreed that transportation gas received at Receipt Point will be delivered by District to Customer.
- **District.** The term "District" shall mean Metropolitan Utilities District.
- **Gas.** The term "gas" shall mean natural gas that is received by District from a transporting pipeline at Receipt Point and delivered by District to Customer at Delivery Point. In addition, the term shall include liquefied natural gas and/or propane introduced by District into its gas distribution system and delivered to Customer as the equivalent of sales or transportation gas that Customer is otherwise entitled to have delivered by District.
- **Gas Day.** The Term "gas day" shall mean the period of time commencing at 9:00 a.m. pipeline time on the starting day and ending at 9:00 a.m. on the following day.
- **FT.** The term "FT" shall mean Firm Gas Transportation.
- **IT.** The term "IT" shall mean Interruptible Gas Transportation.
- **Imbalance.** The term "imbalance" shall mean the difference between the quantity of transportation gas received by District from the transporting pipeline at Receipt Point for Customer's account and the quantity of transportation gas delivered by District to Customer at Delivery Point.
- **Interruption.** The term "interruption" shall mean the total cessation of Transportation Service provided under this rate schedule, whether due to capacity constraint, supply shortage, force majeure, or any other cause reasonably determined by District.
- **Mcf.** The term "Mcf" shall mean one thousand (1,000) cubic feet of natural gas.
- **MMBtu.** The term "MMBtu" shall mean one million (1,000,000) Btu.
- **Natural Gas.** The term "natural gas" shall mean any mixture of hydrocarbons or of hydrocarbons and non-combustible gases, in a gaseous state, consisting principally of methane.
- **Negative Daily Imbalance.** The term "negative daily imbalance" shall mean the difference between daily Receipts and the greater quantity of daily Deliveries.

- **Negative Monthly Imbalance.** The term "negative monthly imbalance" shall mean the difference, at any time during a Billing Month, between cumulative daily Receipts and the greater quantity of cumulative daily Deliveries.
- **Northern Natural Gas Company.** Northern Natural Gas Company or "Northern" is the owner and operator of the interstate natural gas pipeline which transports gas from various producing basins and pipeline interconnects to District's gas distribution system.
- **Nomination.** The term "nomination" shall mean the quantity of gas that District is requested to transport on a daily basis from Receipt Point to Delivery Point.
- **Pipeline Time.** The term "pipeline time" will coincide with either Central Standard Time or Central Daylight Time, whichever is in effect at that particular time of the year.
- **Positive Daily Imbalance.** The term "positive daily imbalance" shall mean the difference between daily Receipts and the lesser quantity of daily Deliveries.
- **Positive Monthly Imbalance.** The term "positive monthly imbalance" shall mean the difference, at any time during a Billing Month, between cumulative daily Receipts and the lesser quantity of cumulative daily Deliveries.
- **Receipts.** The term "receipts" shall mean the quantity of transportation gas the District receives on a daily basis from Customer at Receipt Point.
- **Receipt Point.** The term "receipt point" shall mean the point at which Customer delivers gas to District.
- **Service.** The term "service" or "transportation service" shall mean the availability of the transportation of gas by District to Customer whether or not gas is actually transported.
- **Service Charge.** The term "service charge" shall mean that portion of the amount to be paid per Billing Month by Customer for Transportation Service.
- **Therm.** The term "therm" shall mean 100,000 Btu.
- **Town Border Station (TBS).** The term "town border station" shall mean the physical location where District's distribution system interconnects with Northern's interstate pipeline. The TBS generally consists of facilities to regulate gas pressure and measure volumes of gas.
- **Transportation.** The term "transportation" shall mean transportation of gas.
- **Year.** The term "year" shall mean a period of 365 consecutive days; provided, however, that any such year which contains a date of February 29 shall consist of 366 consecutive days.

## OTHER TERMS AND CONDITIONS

- **Filing.** Transportation will not commence until the Customer files with the District completed End User Agreement on Northern Natural Gas and Application for Interruptible Service Gas Transportation.
- **Gas Quality.** The District reserves the right to commingle Customer's gas with other gas suppliers including propane and liquefied natural gas.
- **Liability**
  - **General.** Gas shall be and shall remain the property of the customer while being transported and delivered by the District. The District shall not be liable to the Customer for any loss arising from or out of gas Transportation Service while in the District's system or for any other cause, except for gross or willful negligence of the District's own employees.
  - **Insurance.** The Customer shall be responsible for determining the extent of and maintaining all insurance it deems necessary to protect its property interest in such gas before, during, and after receipt by the District.
- **Measurement**
  - The quantity of gas transported on a daily basis shall be determined by District gas meter located at Delivery Point. The quantity of gas measured shall be expressed in MMBtu's. The number of MMBtu's transported by District from Receipt Point to Delivery Point in any day shall be determined by multiplying the volume of gas in cubic feet by the average heating value of the gas, expressed in Btu's per cubic foot, as applicable for such day and dividing this product by one million. If, for any reason, metering equipment is out of service or out of repair so that the quantity of gas delivered is not correctly indicated by the reading thereof, the gas delivered during such period shall be estimated by the parties on the basis of the best data available using the first of the following methods which is feasible:

By using the registration of any check measuring equipment installed and accurately registering; or

By correcting the error if the percentage of error is ascertainable by calibration, test or mathematical calculations; or

By estimating the quantity of delivery by deliveries during a preceding period under similar conditions when the meter was registering accurately.
  - Automatic meter reading equipment (AMR) shall be required at Delivery Point prior to the commencement of any transportation services provided for in this Rate Schedule. Customer shall be invoiced the estimated cost associated with the procurement and installation of said automatic meter reading equipment. Upon remittance, District shall purchase and install automatic meter reading equipment at the Delivery Point. Customer

shall furnish an acceptable location for installation of automatic meter reading equipment, as well as provide for the necessary electrical and telephone connections. Customer shall be responsible for any and all one-time and recurring charges associated with electrical, or telephone service required for the installation, and any electrical or telephone service required shall list Customer as the customer. Upon completion of the automatic meter reading installation, District shall determine total installation cost and invoice or credit customer, whichever is applicable, the difference between the total and estimated cost.

- If directed by the District, the Customer shall read the District's gas meter each day at the time specified by the District and report such reading to the District.

- **Request for Service**

- Requests for service under this rate Schedule must be made by filing with the District the information required on the form entitled "Request for Interruptible Gas Transportation" as attached to this rate schedule as Application for Interruptible Service Gas Transportation.
- A Request for Service will not be approved until all the information required by the Request for Transportation Service has been delivered to the District and the Application Fee of \$250.00 has been paid. The District reserves the right to request additional information from any applicant but requesting such information will not normally delay service if the applicant has otherwise provided all of the information and paid the fee as required.
- After a Request for Transportation Service is approved, the applicant shall have one year from notification of approval to execute and send to the District a Contract for Transportation Service. If such Contract is not executed by the Customer and received by the District within such period, the Request for Transportation Service shall be deemed null and void.

- **Nominations.** Customer, or its agent, shall make daily nominations to Northern Natural Gas are required by the pipeline. MUD will be point operator for delivery to our system and will confirm all nominations.
- **Capacity Constraints.** Service under this Schedule is subject to the physical, operational, and contractual constraints of the District's gas system, pertinent to the Delivery Points and Receipt Points.
- **Customer's Balancing Obligation.** Customer shall use an end User Agreement with Northern Natural Gas then all Balancing shall be between Customer and Northern. The District will pass any charges incurred from Northern directly to the Customer and provide support of such charges.
- **Failure to Comply.** If the Customer fails to comply with or perform any of the obligations on its part to be complied with or performed under this Rate Schedule, the District shall have the

right to give Customer written notice of the District's intention to terminate the Transportation on account of such failure, then the District shall have the right to terminate such Transportation at the expiration of five days after the giving of said notice, unless within five days the Customer shall make good such failure. Termination of such Transportation for any such cause shall be a cumulative remedy as to the District and shall not release the Customer from its obligation to make payment of any amount or amounts due or to become due from the Customer to the District under this rate Schedule. In order to resume Transportation after termination of service hereunder, it shall be necessary for Customer to file a new request.