

**CITY OF SOUTH SIOUX CITY**  
**Public Works AGENDA**  
**Monday, October 6, 2025 @ 5:00 PM**  
City Hall Chambers  
1615 1st Avenue, South Sioux City, Nebraska



**Open Meetings Act:**

A current copy of the Open Meetings Act is posted on the north wall in the rear of the Council Chambers and is available for review by all citizens in attendance. A sign-in sheet is available at the entrance to the Council Chambers and it is strictly voluntary to complete the sign-in sheet.

The agenda of all meetings is kept continuously current and available for public inspection at City Hall during normal business hours (NE 84-1411). The City of South Sioux City reserves the right to adjust the order of items on this agenda if necessary and may elect to take action on or go into closed session on any of the items listed (NE 84-1410).

**PUBLIC COMMENT**

Addressing the Council: Persons addressing the Council must use the microphone at the podium. Please raise your hand to be recognized, go to the podium and state your name and address.

Public comment will be taken at the beginning of each agenda item, after the subject has been announced by the presiding officer and explained by staff. Any person who wishes may speak one time for 3 minutes on each agenda item. Public comment will then be closed, and the topic will be given to the governing body for possible action. At this point, only members of the public body and staff may discuss the current agenda item unless the body moves to allow another person to speak and there is unanimous consent. Questions from the body may be directed to staff or a member of the public through the presiding officer. Public comment on items not on the agenda will not be allowed. The public may request that a matter be placed on the agenda by submitting a timely written request to the Clerk.

**MEMBERS:** Randy Meyer, Monty Peters, Mahamud Osman and Yahaira Schultz.

**EXCUSE ABSENCES:**

**1. PUBLIC WORKS:**

- a. Engineer's Report
- b. Foundry Road Improvements
  - Barkley Asphalt – Change Order No: 1  
Original Contract Price - \$988,451.28  
Net change for the Change Order: \$127.78  
Contract Price incorporating this Change Order: \$988,579.06
  - Barkley Asphalt – Final Pay Application – 4  
Amount due - \$244,428.82

**2. Public Safety:**

- a. Storm Sewer Minutes (Dakota County Urban Area Management Association)
- b. Interlocal Cooperation Act Agreement Dakota County Urban Area Stormwater Management Association.
- c. Weeds over sidewalks / mowing / trees in drainage holes

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- d. Tardon on tree stumps / burning of highway fence (*south of John Cain*)

**3. HOUSING AND COMMUNITY DEVELOPMENT:**

- a. Authorization for a whole city hotel feasibility study request. *Roy Perry - would donate the land required for the road right of way of 80ft on the property he purchased on E 39<sup>th</sup> and G Street. In return he is asking for the city to pay for the hotel feasibility study. \$7,700 for the study and can be completed in 8 weeks*
- b. Information only: JEO proceeding with design work for Baumer Park – East 25<sup>th</sup> Street waterline
- c. Sparklight – letter on adjustments – information

**4. MISCELLANEOUS / UNFINISHED BUSINESS:**

- a. Approval of 2025 Salvage yard license
- b. Water and sewer rates – information only
- c. Draft Loan Agreement Review – South Sioux WWTF Expansion Loan (*between Nebraska Department of Water, Energy and Environment and City of South Sioux City*)

**5. DEPARTMENT HEAD UPDATES:**

**6. ADJOURNMENT**



# JEO Project Status Report

To: City of South Sioux City: Lance Hedquist and Oscar Gomez

Date: October 10, 2025

Report Prepared By: Ethan E. Joy, PE

JEO #	Project	Funding Source #	Current Status	Expectations	Necessary City Action	Schedule
HDR# 10346699	South Sioux City WWTF Expansion	SRF & WIFIA	Biogas line installation on-going, building base slabs for AGS basins and Filter Bldg.	River Lift Station concrete pours starting next week.	City staff to continue WIFIA and SRF coordination	Completion date: Spring 2027
R221469.00	Roundhouse Road Paving	Local	Exploring different pond locations for drainage.	Will prepare an amendment based off of pond locations.	None	Bid this year with construction next year
R231763.00	2023 Drainage Evaluation (Daniels Lane)	Local/TIF/NRD	Preparing easements for final plans.	Bid out this month.	None.	TBD
R221876.00	NDOT Westside Connecting Trail – Preliminary Engineering	NDOT-LPA Program	Project Coordination Meeting was held on 8/27.	NDOT had internal meeting on ADA Compliance. Waiting to hear back on decision.	None.	Final Design due February 2026 Bid Letting August 2026
R231515.00	Foundry Road	Local/Nebraska Environmental Grant	Final Seeding done.	Pay Application Submitted to City.	Review and Approve Final Pay App.	Construction Completion June 27, 2025
R24035.00	South Sioux City 2024 Flood Repair	FEMA/NEMA	Work beginning in soccer fields	All projects to get going soon.	None.	

Thank you.

Ethan E. Joy, PE  
Branch Manager

Your Goals, Our Team, One Vision

Note: Items in Red are new from previous report.



# Engineer Report for South Sioux City

Date: October 3rd, 2025

Project	Stage	Status	Milestones	Miscellaneous
Railroad Quiet Zones	Design	Easements complete waiting for signed CM agreement from BNSF		
Water Treatment Plant and Well	Design	Finalizing preliminary engineering report		
FEMA Park Shelter	Design	Under FEMA Review		
Sioux City Interconnect	Design	Construction underway 85% complete		
Timberline Lift Station	Design	October Start, getting last of the pump parts		
Dakota Avenue Redevelopment	Design	Submitted final report for comments		

# CHANGE ORDER NO.: 1

Owner: City of South Sioux City Owner's Project No.:  
 Engineer: JEO Consulting Group, Inc. Engineer's Project No.: 231515.00  
 Contractor: Barkley Asphalt Contractor's Project No.:  
 Project: South Sioux City Foundry Road Improvements  
 Contract Name: South Sioux City Foundry Road Improvements  
 Date Issued: 9/29/2025 Effective Date of Change Order: 9/29/2025

The Contract is modified as follows upon execution of this Change Order:

Description:

To balance final quantities to pay out final pay application.

Attachments:

Change in Contract Price	Change in Contract Times [State Contract Times as either a specific date or a number of days]
Original Contract Price: \$ 988,451.28	Original Contract Times: Substantial Completion: _____ Ready for final payment: _____
Net change from previously approved Change Orders: \$ _____	Net change from previously approved Change Orders [-] to No. [Number of previous Change Order]: Substantial Completion: _____ Ready for final payment: _____
Contract Price prior to this Change Order: \$ 988,451.28	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for final payment: _____
Net change for this Change Order: \$ 127.78	Net change for this Change Order: Substantial Completion: _____ Ready for final payment: _____
Contract Price Incorporating this Change Order: \$ 988,579.06	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for final payment: _____

Recommended by Engineer (if required)

Authorized by Owner

By: Byron Byr  
 Title: Project Manager  
 Date: 09/24/25

Accepted by Contractor

Approved by Funding Agency (if applicable)

By: Mantua W. R.  
 Title: V.P.  
 Date: 9.24.25

EJCDC® C 941, Change Order.

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Change Order Estimate - Unit Price Work						
JEO Project Name: South Sioux City Foundry Road Improvements		JEO Project Number: 231515.00				
Owner: City of South Sioux City		Change Order Number: 1				
Contractor: Barkley Asphalt		Effective Date: September 29, 2025				
Item				Change Order Information		
Bid Item No.	Description	Item Quantity	Units	Unit Price	Total Value of Item (\$)	
GROUP A - FOUNDRY ROAD						
10	Asphalt Concrete, SPR	(50.29)	TONS	114.00	(\$5,733.06)	
11	Asphalt Concrete, SPR, Recycled Plastic	(42.44)	TONS	139.00	(\$5,899.16)	
14	Crushed Rock Surface Course, Shoulder	62.24	TONS	50.80	\$3,161.79	
15	Remove Barricade	(3.00)	EA	100.00	(\$300.00)	
16	Remove and Reset Sign	(1.00)	EA	350.00	(\$350.00)	
18	Install Sign and Post	(2.00)	EA	600.00	(\$1,200.00)	
19	Silt Fence, High Porosity	(300.00)	LF	5.25	(\$1,575.00)	
GROUP B - FOUNDRY ROAD STA. 10+48 TO 19+30						
5	Asphalt Concrete, SPR	(1.50)	TONS	114.00	(\$171.00)	
6	Asphalt Concrete, SPR, Recycled Plastic	(59.13)	TONS	139.00	(\$8,219.07)	
8	Crushed Rock Surface Course, Shoulder	47.07	TONS	51.80	\$2,438.23	
12	Replace Manhole Lid	1.00	EA	400.00	\$400.00	
GROUP C - BUILD PARKING LOT						
7	Asphalt Concrete, SPR, Recycled Plastic	(110.52)	TONS	250.00	(\$27,630.00)	
9	4" Yellow Permanent Pavement Marking Paint	793.00	LF	2.00	\$1,586.00	
10	Blue Permanent Pavement Marking Paint	(11.00)	LF	2.25	(\$24.75)	
13	Asphalt Concrete, SPR	210.01	TONS	120.00	\$25,201.20	
GROUP D - BUILD DRIVEWAY						
6	Asphalt Concrete, SPR, Recycled Plastic	(46.74)	TONS	250.00	(\$11,685.00)	
9	Asphalt Concrete, SPR	89.45	TONS	120.00	\$10,734.00	
GROUP E - BUILD TRAIL						
5	Asphalt Concrete, SPR, Recycled Plastic	(68.71)	TONS	200.00	(\$13,742.00)	

8	Asphalt Concrete, SPR		276.13	TONS	120.00	\$33,135.60
<b>Total:</b>						<b>\$127.78</b>

# Contractor's Application for Payment

Owner:	City of South Sioux City	Owner's Project No.:	
Engineer:	JEO Consulting Group, Inc.	Engineer's Project No.:	231515.00
Contractor:	Barkley Asphalt	Contractor's Project No.:	
Project:	South Sioux City Foundry Road Improvements		
Contract:	South Sioux City Foundry Road Improvements		
Application No.:	4 - Final	Application Date:	9/29/2025
Application Period:	From 6/19/2025	to	9/10/2025

1. Original Contract Price	\$	988,451.28
2. Net change by Change Orders	\$	127.78
3. Current Contract Price (Line 1 + Line 2)	\$	988,579.06
4. Total Work completed and materials stored to date (Sum of Column G Lump Sum Total and Column J Unit Price Total)	\$	988,579.06
5. Retainage		
a. 0% X \$ 988,579.06 Work Completed =	\$	-
b. 5% X \$ - Stored Materials =	\$	-
c. Total Retainage (Line 5.a + Line 5.b)	\$	-
6. Amount eligible to date (Line 4 - Line 5.c)	\$	988,579.06
7. Less previous payments (Line 6 from prior application)	\$	744,150.24
8. Amount due this application	\$	244,428.82
9. Balance to finish, including retainage (Line 3 - Line 4 + Line 5.c)	\$	-

## Contractor's Certification

The undersigned Contractor certifies, to the best of its knowledge, the following:

- (1) All previous progress payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with the Work covered by prior Applications for Payment;
- (2) Title to all Work, materials and equipment incorporated in said Work, or otherwise listed in or covered by this Application for Payment, will pass to Owner at time of payment free and clear of all liens, security interests, and encumbrances (except such as are covered by a bond acceptable to Owner indemnifying Owner against any such liens, security interest, or encumbrances); and
- (3) All the Work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

Contractor: Barkley Asphalt  
 Signature: Menton W. Blue Date: 9.24.25

Recommended by Engineer		Approved by Owner	
By:	<u>By: [Signature]</u>	By:	
Title:	<u>Project Manager</u>	Title:	
Date:	<u>09/24/25</u>	Date:	
Approved by Funding Agency			
By:		By:	
Title:		Title:	
Date:		Date:	



**Progress Estimate - Unit Price Work**

Owner:	City of South Sioux City	Contractor's Application for Payment
Engineer:	JEO Consulting Group, Inc.	Owner's Project No.: 231515.00
Contractor:	Barkley Asphalt	Contractor's Project No.:
Project:	South Sioux City Foundry Road Improvements	
Contract:	South Sioux City Foundry Road Improvements	

Application No.:		4 - Final	Application Period:		From	06/19/25	to	09/10/25	Application Date:			09/29/25	
A	B	C	D	E	Contract Information		F	G	H	I	J	K	L
Bid Item No.	Description	Item Quantity	Units	Unit Price (\$)	Value of Bid Item (C X E)		Value of Work Completed to Date (E X G)	Estimated Quantity Incorporated in the Work	Value of Work Completed (\$)	Materials Currently Stored (not in G) (\$)	Work Completed and Materials Stored to Date (H + I) (\$)	% of Value of Item (J / F) (%)	Balance to Finish (F - J) (\$)
Original Contract													
GROUP A - FOUNDRY ROAD													
1	Mobilization	1	LS	52,000.00		52,000.00		1.00	52,000.00		52,000.00	100%	-
2	Bonding and Insurance	1	LS	8,500.00		8,500.00		1.00	8,500.00		8,500.00	100%	-
3	Excavation, Established Quantity	1,352	CY	17.24		23,308.48		1,352.00	23,308.48		23,308.48	100%	-
4	Clearing and Grubbing	1	LS	20,308.00		20,308.00		1.00	20,308.00		20,308.00	100%	-
5	Remove Concrete Header	27	LF	4.00		108.00		27.00	108.00		108.00	100%	-
6	Adjust Hydrant to Grade	1	EA	2,000.00		2,000.00		1.00	2,000.00		2,000.00	100%	-
7	Adjust Valve Box to Grade	2	EA	1,800.00		3,600.00		2.00	3,600.00		3,600.00	100%	-
8	Fly Ash Subgrade Stabilization	5,703	SY	15.69		89,480.07		5,703.00	89,480.07		89,480.07	100%	-
9	Subgrade Preparation	5,703	SY	1.45		8,269.35		5,703.00	8,269.35		8,269.35	100%	-
10	Asphalt Concrete, SPR	1,733	TONS	114.00		197,562.00		1,733.00	197,562.00		197,562.00	100%	-
11	Asphalt Concrete, SPR, Recycled Plastic	716	TONS	139.00		99,524.00		716.00	99,524.00		99,524.00	100%	-
12	6" Asphalt Concrete Driveway	10	TONS	250.00		2,500.00		10.00	2,500.00		2,500.00	100%	-
13	Crushed Rock Surface Course, Driveway	9	TONS	51.80		466.20		9.00	466.20		466.20	100%	-
14	Crushed Rock Surface Course, Shoulder	238	TONS	50.80		12,090.40		238.00	12,090.40		12,090.40	100%	-
15	Remove Barricade	3	EA	100.00		300.00		3.00	300.00		300.00	100%	-
16	Remove and Reset Sign	4	EA	350.00		1,400.00		4.00	1,400.00		1,400.00	100%	-
17	Install Delineator Sign and Post	60	EA	30.00		1,800.00		60.00	1,800.00		1,800.00	100%	-
18	Install Sign and Post	13	EA	600.00		7,800.00		13.00	7,800.00		7,800.00	100%	-
19	Silt Fence, High Porosity	300	LF	5.25		1,575.00		300.00	1,575.00		1,575.00	100%	-
20	Erosion Control Mat	5,349	SY	1.65		8,825.85		5,349.00	8,825.85		8,825.85	100%	-
21	Hydro-Seeding, Fertilizer and Mulch	1.12	ACRE	9,000.00		10,080.00		1.12	10,080.00		10,080.00	100%	-
22	Temporary Traffic Control Measures	1	LS	8,500.00		8,500.00		1.00	8,500.00		8,500.00	100%	-
GROUP B - FOUNDRY ROAD STA. 10+48 TO 19+30													
1	Excavation, Established Quantity	535	CY	17.24		9,223.40		535.00	9,223.40		9,223.40	100%	-
2	Clearing and Grubbing	1	LS	20,000.00		20,000.00		1.00	20,000.00		20,000.00	100%	-
3	Fly Ash Subgrade Stabilization	3,217	SY	15.69		50,474.73		3,217.00	50,474.73		50,474.73	100%	-
4	Subgrade Preparation	3,217	SY	1.45		4,664.65		3,217.00	4,664.65		4,664.65	100%	-
5	Asphalt Concrete, SPR	948	TONS	114.00		108,072.00		948.00	108,072.00		108,072.00	100%	-
6	Asphalt Concrete, SPR, Recycled Plastic	438	TONS	139.00		60,882.00		438.00	60,882.00		60,882.00	100%	-
7	Crushed Rock Surface Course, Driveway	33	TONS	50.80		1,676.40		33.00	1,676.40		1,676.40	100%	-
8	Crushed Rock Surface Course, Shoulder	138	TONS	51.80		7,148.40		138.00	7,148.40		7,148.40	100%	-
9	Install Delineator Sign and Post	36	EA	30.00		1,080.00		36.00	1,080.00		1,080.00	100%	-
10	Erosion Control Mat	2,951	SY	1.65		4,869.15		2,951.00	4,869.15		4,869.15	100%	-
11	Hydro-Seeding, Fertilizer and Mulch	0.61	ACRE	5,800.00		3,538.00		0.61	3,538.00		3,538.00	100%	-
GROUP C - BUILD PARKING LOT													
1	Mobilization	1	LS	9,500.00		9,500.00		1.00	9,500.00		9,500.00	100%	-
2	Bonding and Insurance	1	LS	1,500.00		1,500.00		1.00	1,500.00		1,500.00	100%	-
3	Excavation, Established Quantity	15	CY	57.00		855.00		15.00	855.00		855.00	100%	-
4	Clearing and Grubbing	1	LS	3,000.00		3,000.00		1.00	3,000.00		3,000.00	100%	-
5	Remove Pavement	73	SY	12.00		876.00		73.00	876.00		876.00	100%	-
6	12" Subgrade Preparation	506	SY	4.20		2,125.20		506.00	2,125.20		2,125.20	100%	-
7	Asphalt Concrete, SPR, Recycled Plastic	162	TONS	250.00		40,500.00		162.00	40,500.00		40,500.00	100%	-
8	Install Sign and Post	1	EA	600.00		600.00		1.00	600.00		600.00	100%	-
9	4" Yellow Permanent Pavement Marking Paint	396	LF	2.00		792.00		396.00	792.00		792.00	100%	-
10	Blue Permanent Pavement Marking Paint	93	LF	2.25		209.25		93.00	209.25		209.25	100%	-
11	Hydro-Seeding, Fertilizer and Mulch	0.1	ACRE	15,000.00		1,500.00		0.10	1,500.00		1,500.00	100%	-
12	Temporary Traffic Control Measures	1	LS	3,000.00		3,000.00		1.00	3,000.00		3,000.00	100%	-

**Progress Estimate - Unit Price Work**

Owner:	City of South Sioux City
Engineer:	JEO Consulting Group, Inc.
Contractor:	Barkley Asphalt
Project:	South Sioux City Foundry Road Improvements
Contract:	South Sioux City Foundry Road Improvements

**Contractor's Application for Payment**

Owner's Project No.:	231515.00
Engineer's Project No.:	
Contractor's Project No.:	

Application No.: 4 - Final			Application Period:		From	06/19/25	to	09/10/25	Application Date:				09/29/25
A	B	C	D	E		F	G	H	I	J	K	L	
Bid Item No.	Description	Item Quantity	Units	Contract Information		Value of Bid Item (C X E) (\$)	Work Completed		Materials Currently Stored (not in G) (\$)	Work Completed and Materials Stored to Date (H + I) (\$)	% of Value of Item (J / F) (%)	Balance to Finish (F - J) (\$)	
				Unit Price (\$)	Value of Work Completed to Date (E X G) (\$)		Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E X G) (\$)					
GROUP D - BUILD DRIVEWAY													
1	Mobilization	1	LS			4,500.00	1.00	4,500.00	-	4,500.00	100%	-	
2	Bonding and Insurance	1	LS			1,000.00	1.00	1,000.00	-	1,000.00	100%	-	
3	Excavation, Established Quantity	45	CY			28.00	45.00	1,260.00	-	1,260.00	100%	-	
4	12" Subgrade Preparation	246	SY			4.20	246.00	1,033.20	-	1,033.20	100%	-	
5	Adjust Valve Box to Grade	2	EA			1,500.00	2.00	3,000.00	-	3,000.00	100%	-	
6	Asphalt Concrete, SPR, Recycled Plastic	69	TONS			250.00	69.00	17,250.00	-	17,250.00	100%	-	
7	Hydro-Seeding, Fertilizer and Mulch	0.1	ACRE			15,000.00	0.10	1,500.00	-	1,500.00	100%	-	
8	Temporary Traffic Control Measures	1	LS			4,500.00	1.00	4,500.00	-	4,500.00	100%	-	
GROUP E - BUILD TRAIL													
1	Mobilization	1	LS			5,500.00	1.00	5,500.00	-	5,500.00	100%	-	
2	Bonding and Insurance	1	LS			1,000.00	1.00	1,000.00	-	1,000.00	100%	-	
3	Excavation, Established Quantity	130	CY			24.03	130.00	3,123.90	-	3,123.90	100%	-	
4	6" Subgrade Preparation	781	SY			3.65	781.00	2,850.65	-	2,850.65	100%	-	
5	Asphalt Concrete, SPR, Recycled Plastic	213	TONS			200.00	213.00	42,600.00	-	42,600.00	100%	-	
6	Hydro-Seeding, Fertilizer and Mulch	0.3	ACRE			7,500.00	0.30	2,250.00	-	2,250.00	100%	-	
7	Temporary Traffic Control Measures	1	LS			1,000.00	1.00	1,000.00	-	1,000.00	100%	-	
Original Contract Totals						\$ 988,451.28		\$ 988,451.28	\$ -	\$ 988,451.28	100%	\$ -	

### Contractor's Application for Payment

Owner's Project No.:	
Engineer's Project No.:	231515.00
Contractor's Project No.:	

Application No.: 4 - Final				Application Period:		From		to		09/10/25		Application Date: 09/29/25			
A	B	C	D	E	F	G	H	I	J	K	L				
		Contract Information				Work Completed		Materials Currently Stored (not in G)	Work Completed and Materials Stored to Date (H + I)	% of Value of Item (J / F)	Balance to Finish (F - I) (\$)				
Bid Item No.	Description	Item Quantity	Units	Unit Price (\$)	Value of Bid Item (C X E)	Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E X G)								
Change Orders															
GROUP A - FOUNDRY ROAD															
10	Asphalt Concrete, SPR	(50.29)	TONS	114.00	(5,733.06)	(50.29)	(5,733.06)	-	(5,733.06)	100%	-				
11	Asphalt Concrete, SPR, Recycled Plastic	(42.44)	TONS	139.00	(5,899.16)	(42.44)	(5,899.16)	-	(5,899.16)	100%	-				
14	Crushed Rock Surface Course, Shoulder	62.24	TONS	50.80	3,161.79	62.24	3,161.79	-	3,161.79	100%	-				
15	Remove Barricade	(3.00)	EA	100.00	(300.00)	(3.00)	(300.00)	-	(300.00)	100%	-				
16	Remove and Reset Sign	(1.00)	EA	350.00	(350.00)	(1.00)	(350.00)	-	(350.00)	100%	-				
18	Install Sign and Post	(2.00)	EA	600.00	(1,200.00)	(2.00)	(1,200.00)	-	(1,200.00)	100%	-				
19	Silt Fence, High Porosity	(300.00)	LF	5.25	(1,575.00)	(300.00)	(1,575.00)	-	(1,575.00)	100%	-				
GROUP B - FOUNDRY ROAD STA. 10+48 TO 19+30															
5	Asphalt Concrete, SPR	(1.50)	TONS	114.00	(171.00)	(1.50)	(171.00)	-	(171.00)	100%	-				
6	Asphalt Concrete, SPR, Recycled Plastic	(59.13)	TONS	139.00	(8,219.07)	(59.13)	(8,219.07)	-	(8,219.07)	100%	-				
8	Crushed Rock Surface Course, Shoulder	47.07	TONS	51.80	2,438.23	47.07	2,438.23	-	2,438.23	100%	-				
12	Replace Manhole Lid	1.00	EA	400.00	400.00	1.00	400.00	-	400.00	100%	-				
GROUP C - BUILD PARKING LOT															
7	Asphalt Concrete, SPR, Recycled Plastic	(110.52)	TONS	250.00	(27,630.00)	(110.52)	(27,630.00)	-	(27,630.00)	100%	-				
9	4" Yellow Permanent Pavement Marking Paint	793.00	LF	2.00	1,586.00	793.00	1,586.00	-	1,586.00	100%	-				
10	Blue Permanent Pavement Marking Paint	(11.00)	LF	2.25	(24.75)	(11.00)	(24.75)	-	(24.75)	100%	-				
13	Asphalt Concrete, SPR	210.01	TONS	120.00	25,201.20	210.01	25,201.20	-	25,201.20	100%	-				
GROUP D - BUILD DRIVEWAY															
6	Asphalt Concrete, SPR, Recycled Plastic	(46.74)	TONS	250.00	(11,685.00)	(46.74)	(11,685.00)	-	(11,685.00)	100%	-				
9	Asphalt Concrete, SPR	89.45	TONS	120.00	10,734.00	89.45	10,734.00	-	10,734.00	100%	-				
GROUP E - BUILD TRAIL															
5	Asphalt Concrete, SPR, Recycled Plastic	(68.71)	TONS	200.00	(13,742.00)	(68.71)	(13,742.00)	-	(13,742.00)	100%	-				
8	Asphalt Concrete, SPR	276.13	TONS	120.00	33,135.60	276.13	33,135.60	-	33,135.60	100%	-				
					-		-	-	-	-	-				
					-		-	-	-	-	-				
					-		-	-	-	-	-				
					-		-	-	-	-	-				
					-		-	-	-	-	-				
Change Order Totals					\$	127.78	\$	127.78	\$	127.78	100%	\$			

Original Contract and Change Orders	Project Totals	\$	988,579.06	\$	100%	\$
		\$	988,579.06	\$	-	988,579.06

Dakota County Urban Area Storm Management Association  
September 18, 2025, Minutes  
South Sioux City – Public Works Building  
South Sioux City, Nebraska

Attendance Recorded: Voting Members Present: Lance Hedquist, City of South Sioux City; and Bob Kratky, City of Dakota City. Absent: Martin Hohenstein, Dakota County  
Non-voting Members Present: Cherie Conley, Dakota County Clerk- Acting Secretary, Erick Galvan – SSC Water Department, Terry Lage – JEO.

Acting Chair Lance Hedquist called the meeting to order at 9:25 a.m. Attendance was recorded. Chair noted the Open Meetings Act location for review by all citizens in attendance.

Chair Hedquist - No Public Hearing

Old Business

Stormwater Member Kratky moved, seconded Commissioner Hedquist, to approve the minutes of the March 20, 2025 meeting. Roll Call - All Aye.

Interlocal Agreement areas of responsibility and obligation were discussed.

- *Elicit discharge detection and elimination.*  
SSC-4 discharges; Dakota City-None; Dakota County-None.
- *Pollution Prevention and Good Housekeeping.*  
City of SSC and Dakota City Water Depts are complying.
- *GIS mapping and other reports.*  
Dakota City reported that mapping was done in front of the Tyson area.
- *Information required for monthly and/or annual reports.*  
JEO is working with the 3 entities preparing the reports and updating the required permits. We will review the 2019 Interlocal Agreement, make changes and adopt revised agreement.
- *Organizing meetings.*  
Dakota County posted in Dakota City Post Office, Courthouse, SSC Hall and Dakota City Hall. Dakota County would like someone else to take this position over.
- *Educational materials.*  
Educational brochures are being given out to contractors; placed in library, post offices and city halls.
- *Preparing Reports/Association.*  
JEO is working with the 3 entities preparing the reports and updating the required permits and will have annual report and plan ready to submit by the April 1<sup>st</sup> deadline.
- *Contracts – So Sioux City*
- *Construction site plan review.* SSC reviews and does permits.
- *Construction stormwater education.* Educational brochures given to contractors. Mr. Galvan is working on setting up training with contractors.

Report on the Joint Obligations were discussed:

- *SWMP Plan Compliance.*  
JEO Terry Lage will be working with everyone on the new permit review and response plans. Mr. Galvan will work with Dakota City Fire Department to use their boat to check and take pictures of the riverbank outfalls.
- *Satisfy State and Federal Reporting requirements.*  
Excel file is being used for tracking and reporting.
- *Storm Water piping and discharge mapping and other reports be submitted to City of South Sioux City Stormwater Team.*
- *Urbanized area mapping.*  
Nothing to report. County has no outfalls.

New Business –

Terry Lage will be working with all 3 entities on filling out the FRCP (Facility Runoff Control Plan). This has to do with tanks containing fuel and oils. Dean Pallas, Road Foreman, is the contact for Dakota County on this plan.

South Sioux City Administrator Hedquist moved, seconded by Dakota City Administrator Bob Kratky to adjourn at 9:41 a.m. All in favor.

Next meeting will be March 18, 2026 at 9:00 a.m. at the South Sioux City Public Works Building. May have to schedule a meeting prior to review Interlocal Agreement and permits.

Respectfully submitted,  
Cherie Conley  
Acting Secretary



INTERLOCAL COOPERATION ACT AGREEMENT  
DAKOTA COUNTY URBAN AREA STORMWATER MANAGEMENT ASSOCIATION

THIS AGREEMENT (hereinafter referred to as "this Agreement") is made by and among those of the following eligible parties, to-wit: the CITY OF SOUTH SIOUX CITY, Nebraska; the CITY OF DAKOTA CITY, Nebraska; and the COUNTY OF DAKOTA, Nebraska, (hereinafter referred to collectively as "the members of the Dakota County Urban Area Stormwater Management Association", or "the Association").

WHEREAS, each of the members of the Association is situated in whole or part within a watershed defined as the Dakota County urbanized MS4 permitted area that contributes storm water to the Missouri River (hereafter referred to as "the Watershed");

WHEREAS, by the members of the Association acting in concert and proposing, enacting and implementing common standards, there will be increases in effectiveness and in cost-sharing capability within the Association, particularly in the capability to address federally-imposed requirements and mandates which are imminent, and which must be funded locally;

WHEREAS, a coordinated effort will improve compliance with federal, state, and local regulations, such as Storm Water Program, National Pollutant Discharge Elimination System Point Source Permits, Federal Emergency Management Agency, and local planning and zoning regulations;

WHEREAS, pursuant to the previous Interlocal Agreement entered into by the parties, the duration of the Agreement was to remain in full force and effect until such time as stormwater grant funding was no longer available;

WHEREAS, grant funding is no longer available, therefore a new agreement is necessary.

NOW, THEREFORE, in consideration of the foregoing recitals and their mutual covenants hereinafter expressed, the members of the Association agree as follows:

1. **Authority.** This Agreement is made pursuant to authority provided in the Nebraska Interlocal Cooperation Act (Neb. Rev. Stat., §13-801, et. seq.), without a separate entity being created and, whenever possible, this Agreement shall be construed in conformity therewith.

2. **Mission.** It shall be the mission of the Association to address issues related to water quality and storm water quantity in the Watershed by establishing regionally common goals and standards for the development of the Watershed through 2040.

3. **Applicability.** Members of the Association having jurisdiction over land area outside the physical boundaries of the Watershed expect that planning activities within the Watershed for projects of the Association will, insofar as feasible, apply universally to all such areas as though they were located physically within the MS4 Stormwater permitted Watershed.

4. **Goals.** The Association shall have as its goal compliance with Federal, State, and local regulations, including without limitation, applications for Stormwater Phase II permits under the National Pollutant Discharge Elimination System.

5. **Executive Committee.** The members of the Association shall establish an Executive Committee consisting of one representative from each entity that is a member of the Association. Two (2) members of the Executive Committee shall constitute a quorum to conduct the business of the Association. Any expenditure of funds in excess of \$5,000.00 shall require approval of all the members of the Association.

6. **Areas of Responsibility.** The respective members of the Association are responsible for the following areas of responsibility within their jurisdiction:

- a. Dakota City and Dakota County shall be responsible for the following areas:
  - i. GIS mapping and other reports.
  - ii. Information required for monthly and/or annual reports.
- b. Dakota County shall be responsible for the following areas:
  - i. Organizing meetings of members of the Association and interested persons to share knowledge and compare projects and programs of all involved.
- c. South Sioux City, Nebraska shall be responsible for the following areas:
  - i. Preparing, presenting and distributing educational materials.
  - ii. Preparing reports on the work of the Association.
  - iii. Entering into contracts on behalf of the Association as the Executive Committee directs for the performance of specific actions consistent with both the goals of this Agreement and the respective missions of members of the Association.
  - iv. Construction site plan review.
  - v. Construction stormwater education.
- d. Each member of the Association is responsible for the following:
  - i. Elicit discharge detection and elimination.
  - ii. Pollution prevention and good housekeeping.
  - iii. Public involvement and participation materials.
  - iv. Maintenance, implementation, and enforcement of erosion and sediment control authority.
  - v. Construction site inspections.
  - vi. Post-construction stormwater control authority.
  - vii. Stormwater treatment plan review.
  - viii. Stormwater treatment site inspection.

7. **Fee Allocation.**

- a. The parties agree to share the costs for preparing, presenting and distributing education materials one-third between each member.
- b. The parties agree that a fee of One Hundred Dollars (\$100.00) will be assessed by the City of South Sioux City, Nebraska, for each building permit submitted and requiring

storm water management. The One Hundred Dollars (\$100.00/hour) fee per hour is in addition to the building permit fees.

- c. All work completed by one entity for another shall be charged at a fee of One Hundred Dollars (\$100.00/hour) per hour plus costs
- d. Each party agrees to be responsible for any penalties, surcharges, or additional fees for violations attributable to them by State or Federal authorities.

**8. Joint Obligation.**

- a. The parties agree to work with each Association Member to accomplish the goals of the storm water management plan. The parties incorporate the SWMP plan by reference and agree to comply with all requirements therein.
- b. The parties further agree that the Interlocal Cooperation Act Agreement for Stormwater Inspection Camera, effective February 26, 2013, is also incorporated by reference herein and the parties agree to comply with all obligations contained therein.
- c. The parties agree to jointly cooperate to satisfy any reporting requirements by the state of Nebraska and any other state or federal agencies.
- d. The parties agree that all required storm water piping and discharge mapping and other reports for 2019 will be submitted to South Sioux City by June 29, 2019.
- e. The parties further agree that thereafter all mapping and other reports shall be submitted to South Sioux City by January 1, 2020 and each year thereafter.
- f. The parties agree to be responsible, under this Agreement, for the areas outlined on the attached Urbanized Area Map.

**9. Title to Property.** Title to any tangible property (e.g., monitoring equipment), obtained under this Agreement shall be held in the name of the Administering Agent in trust for the members of the Association in proportion to their total contributions to the Watershed Fund.

**10. Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Counterpart copies of this Agreement, as executed, shall be maintained as part of the records of the Administering Agent.

**11. Effective Date.** This Agreement shall become effective on June 14, 2019.

**12. Additional Planning and Implementation.** The members of the Association may amend or supplement this Agreement from time to time as may be deemed necessary to provide long term funding and authorization for additional planning and implementation of beneficial programs and projects to meet the mission and goals of this Agreement.

**13. Effect of Change in Law.** In the event the State of Nebraska makes any material changes to the MS4 Urbanized Coverage area for the local permit, any member of the Association may terminate its rights and obligations under this Agreement.

IN WITNESS WHEREOF, this Agreement is entered into by the members of the Association pursuant to resolutions duly adopted by their respective governing boards.

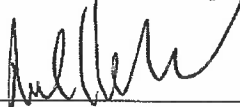
**[SEPARATE SIGNATURE PAGES FOLLOW]**

**INTERLOCAL COOPERATION ACT AGREEMENT  
DAKOTA COUNTY URBAN AREA STORMWATER MANAGEMENT ASSOCIATION**

**SIGNATURE PAGE**

Executed by the City of South Sioux City, Nebraska, on this 10<sup>th</sup> day of June,  
2019.

CITY OF SOUTH SIOUX CITY,  
NEBRASKA, a municipal corporation

  
\_\_\_\_\_  
Rod Koch, Mayor

ATTEST:

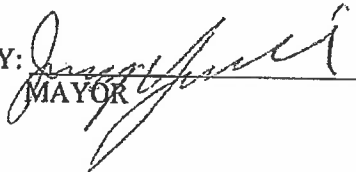
  
\_\_\_\_\_  
Nanci Walsh, City Clerk

**INTERLOCAL COOPERATION ACT AGREEMENT  
DAKOTA COUNTY URBAN AREA STORMWATER MANAGEMENT ASSOCIATION**

**SIGNATURE PAGE**

Executed by the City of Dakota City, Nebraska on this 6<sup>th</sup> day of June,  
2019.

THE CITY OF DAKOTA CITY,  
NEBRASKA

BY:   
MAYOR

ATTEST:

  
CITY CLERK



**INTERLOCAL COOPERATION ACT AGREEMENT  
DAKOTA COUNTY URBAN AREA STORMWATER MANAGEMENT ASSOCIATION**

**SIGNATURE PAGE**

Executed by the County of Dakota, Nebraska on this 3<sup>rd</sup> day of June,  
2019.

THE COUNTY OF DAKOTA,  
NEBRASKA

BY: [Signature]  
CHAIRPERSON, COUNTY BOARD

ATTEST:

Cherie Conley, Deputy  
COUNTY CLERK



APPROVED AS TO FORM:

[Signature]  
COUNTY ATTORNEY



Finance  
+  
CWA

September 10, 2025

Dear Mayor Koch,

We value our partnership in the community and want to share information about an upcoming adjustment to Sparklight's residential and business video rate structures.

We strive to keep our TV service affordable while delivering the quality programming our customers enjoy. In our contract negotiations with cable networks and broadcasters, we push for fair terms to protect our customers from unreasonable rate increases. Over the past several years, however, these networks and broadcasters have raised their fees at an alarming pace. Despite our best efforts to manage these sharply rising costs, Sparklight, like other cable and satellite companies, must pass on a portion of these costs to our customers.

Below you'll find a breakdown of the upcoming rate changes. Residential customers on a promotional rate are excluded from this rate adjustment during the term of their promotion.

As always, we encourage our customers to contact us so that we may share ways they can save money on their monthly bills. We know that everyone's needs are different, and we are happy to work with our customers to find a plan that best fits their viewing habits and budget.

Sparklight Residential TV Service	Rate Change
Economy (includes bundle customers)	No increase
Standard (includes bundle customers)	+\$8.00/month
Broadcast Surcharge	Varies by market
Sports Surcharge (applies to Standard video customers)	+\$1.00/month
HBO	+\$1.00/month

Sparklight Business TV Service	Rate Change
Business Lobby	+\$8.00/month
Economy TV	+\$8.00/month
Business News & Info	+\$8.00/month
Business News & Sports	+\$8.00/month
Business Entertainment Standard	+\$8.00/month
Business Entertainment Preferred	+\$8.00/month
Broadcast Surcharge	Varies by market
Sports Surcharge (applies to all except Business Lobby and Economy TV)	+\$1.00/month

We appreciate your partnership and are always here to help. Please reach out anytime with questions, and we look forward to working together to serve our community.

Sincerely,

Sam McGill  
Director, Regional Operations  
C.410.490.2421  
Sam.McGill@Sparklight.biz

## **2025 SALVAGE YARDS**

<b>A-1 CRASHED CARS-KOSISKI AUTO PARTS</b>	461 Dixon Path, South Sioux City NE 68776	Received 9/4/2025	License# 25-7
<b>ANDERSON SALVAGE</b>	901 W 9 <sup>th</sup> Street, South Sioux City, NE 68776	Received 9/1/2025	License # 25-6
<b>ANDERSON SALVAGE#2</b>	817 8 <sup>th</sup> Avenue, South Sioux City, NE 68776	Received 9/1/2025	License # 25-10
<b>C&amp;H TRUCK PARTS</b>	567 Old Hwy 20, South Sioux City, NE 68776	Received 9/4/2025	License# 25-8
<b>D&amp;D SALVAGE</b>	1495 Elgin Avenue, South Sioux City, NE 68776	Received 9/18/2025	License# 25-3
<b>GARVIN'S SALVAGE</b>	559 Old Highway 20, South Sioux City, NE 68776	Received 9/23/2025	License# 25-9
<b>GREAT WEST CASUALTY COMPANY</b>	569 Old Highway 20, South Sioux City, NE 68776	Received 9/15/2025	License# 25-4
<b>MARK ALBENESIUS, INC.</b>	608 152 <sup>nd</sup> Street, South Sioux City, NE 68776	Received 9/25/2025	License# 25-2
<b>STAPLETON SALVAGE</b>	557 Old Hwy 20, South Sioux City, NE 68776	Received 9/16/2025	License#25-5

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**LOAN AGREEMENT**  
(Governmental Borrower)

Between the

**NEBRASKA DEPARTMENT OF WATER, ENERGY, AND ENVIRONMENT**

And

**CITY OF SOUTH SIOUX CITY, NEBRASKA**

**NDWEE PROJECT NO. C318077**

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

---

**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 WATER, ENERGY, AND ENVIRONMENT  
AND  
THE CITY OF SOUTH SIOUX CITY, NEBRASKA  
PROJECT NO. C318077

This LOAN AGREEMENT with SRF Number C318077 (hereinafter "Loan Agreement") is entered into by and between the State of Nebraska, acting by and through the Nebraska Department of Water, Energy, and Environment (hereinafter "NDWEE") and the City of South Sioux City, Nebraska (hereinafter "Borrower").

WITNESSETH THAT

WHEREAS, the Federal Water Pollution Control Act, and all amendments thereto (hereinafter "Federal Act"), including the Water Quality Act of 1987, 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) #66.458 for Clean 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.) §81-15,153 empowers the NDWEE to loan available funds in the Wastewater Treatment Facilities Construction Loan Fund (hereinafter "Fund") to borrowers pursuant to the Wastewater Treatment Facilities Construction Assistance Act (hereinafter "Act") and rules and regulations adopted under such Act; and

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

WHEREAS, pursuant to such authorization, the Nebraska Investment Finance Authority (hereinafter "NIFA") may, from time to time, issue its Wastewater Treatment Facilities Construction Loan Fund revenue bonds for the purpose of financing wastewater treatment projects (as defined in the Act), including to provide funds for the NDWEE to loan to borrowers and to satisfy the state match requirements of the Federal Act; and

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

WHEREAS, the City of South Sioux City, Nebraska, is a "Municipality" as defined in Neb. Rev. Stat. §81-15,149(10); and

WHEREAS, the project to be financed under this Loan Agreement, as described in Exhibit 1 (hereinafter "Project") of this Loan Agreement, 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 NDWEE pursuant to Section 2.01 of this Loan Agreement; and

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

WHEREAS, the NDWEE 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 NDWEE pursuant to the Federal Act and the Act to finance Project Costs; and



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

## **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 Wastewater Treatment Facilities Construction Assistance Act, Neb. Rev. Stat. §81-15,147 et seq., 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 System 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, System 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) "Borrower" means the City of South Sioux City, Nebraska that is a party to and is described in the first paragraph of this Loan Agreement, and its successors and assignees.
- (e) "Clean Water State Revolving Fund" or "CWSRF" means the Nebraska Clean Water State Revolving Fund Program established pursuant to the Act and Regulations.
- (f) "Combined Utilities Systems" means the water system, the sanitary sewer system, and the electrical system owned and operated by the City.
- (g) "Cut-off Date" means the date established by the NDWEE, 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 System" means the structures, equipment, and processes to obtain source water, treat the source water, store water, distribute drinking water fit for human consumption, and dispose of any byproducts from the processes.
- (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 System 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, System Revenues.
- (m) "Federal Act" means the Federal Water Pollution Control Act, et seq. as amended.
- (n) "Fund" means the Wastewater Treatment Facilities Construction 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.
- (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 NDWEE 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) "Loan" means the loan made by the NDWEE to the Borrower to finance or refinance all or a portion of the Project Costs pursuant to this Loan Agreement.
- (u) "Loan Agreement" means this Loan Agreement, including the Attachments hereto, as it may be properly supplemented, modified, or amended.
- (v) "Loan Amount" means the principal amount specified in Section 2.01 of this Loan Agreement and as amended which the NDWEE 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.
- (w) "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.
- (x) "Loan Repayments" means the payments of the Loan required to be made by the Borrower pursuant to Section 2.06 of this Loan Agreement.
- (y) "Loan Terms" means the terms as established by this Loan Agreement.
- (z) "NDWEE" means the Nebraska Department of Water, Energy, and Environment established pursuant to Neb. Rev. Stat. §81-1501 et. seq, as amended.
- (aa) "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.
- (bb) "Note" means a promissory note of the Borrower with respect to the Loan in the form of Attachment F to this Loan Agreement.

- (cc) "Ordinance" means Ordinance No. 2024-13 passed and approved by the governing body of the Borrower on September 9, 2024, as the same may be amended from time to time.
- (dd) "Project" means an eligible item for funding under the Act and is as described in Exhibit 1 of this Loan Agreement.
- (ee) "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 NDWEE are eligible under the Federal Act, and the Act, and Regulations. Estimated Project Costs are described in Attachment B.
- (ff) "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 NDWEE pursuant to the Act.
- (gg) "Retainage" means construction costs held back by the Borrower from the payments due to the contractor to assure satisfactory completion of the construction agreement.
- (hh) "Revenue Obligation" means, without duplication, (i) the Loan; (ii) any Existing Revenue Obligation; and (iii) any Additional Revenue Obligation.
- (ii) "Sanitary Sewer Collection System" means the structures, equipment, and processes required to collect and transport sanitary sewer wastewater to the wastewater treatment facility.
- (jj) "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.
- (kk) "State" means the State of Nebraska acting, unless otherwise specifically indicated, by and through the NDWEE and its successors and assignees.
- (ll) "Subsidies" means Loan Forgiveness Grant funds as established by Section 2.01(a) of this Agreement that are provided as grant concurrently with the loan amount to the Borrower.
- (mm) "System Revenues" means all revenues derived by the Borrower from the User Charge System.
- (nn) "Trustee" means the trustee under any trust indenture with respect to revenue bonds the proceeds of which are deposited in the Fund.
- (oo) "User Charge System" means the methodology used to assess user fees and charges for the use and services furnished by or through the Combined Utilities System to the Borrower and as defined herein of this Loan Agreement. Revenues shall include, without limitation:
  - (1) Receipts from all charges imposed upon users for service(s) provided; and
  - (2) Receipts from hookup fees, tap fees, capital facilities charges connected with the use or right to use the Combined Utilities System, for any part thereof (specifically including the Project) whether any such receipts (as described herein of the definition of User Charge System of this Loan Agreement) are directly received by the Borrower from customers or indirectly through interlocal or other agreements with other political subdivisions.
- (pp) "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 NDWEE will loan amount not to exceed twenty-two million, five hundred thousand dollars (\$22,500,000) to the Borrower to pay a portion of the Project Costs described in Attachment B hereto.

The final actual amount of the Loan may be reduced without revision of any other terms, provisions, or conditions of this Loan Agreement, other than adjustment by the NDWEE 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 NDWEE 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 NDWEE with such revised or additional terms, conditions, and covenants as the NDWEE 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 NDWEE 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 NDWEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. The interest rate on this Loan is 0.75% 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 NDWEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. The Borrower shall pay to the NDWEE, or at the direction of the NDWEE, to the NIFA or the Trustee, an annual administrative fee of 0.75% 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 NDWEE, the NDWEE 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 NDWEE. 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 NDWEE 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 NDWEE.
- (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 NDWEE until such Retainage is either reduced or released to the contractor by the Borrower.
- (e) Additional requirements for disbursement include:
  - (1) Operation and Maintenance Manual. The Borrower shall submit a draft of the operation and maintenance manual for the Project to the NDWEE before disbursements exceed 75% of the Project Costs. The Borrower shall submit a final operation and maintenance manual to the NDWEE and receive approval before disbursements exceed 95% of the Project Costs or final disbursement, whichever occurs first.
  - (2) Fiscal Sustainability Plan. In accordance with the Regulations, a recipient of a CWSRF loan for a project that involves the repair, replacement, or expansion of a Wastewater Treatment Works must develop and implement a Fiscal Sustainability Plan (FSP) that includes, at minimum:
    - i. An inventory of critical assets that are part of the Wastewater Treatment Works;
    - ii. An evaluation of the condition and performance of inventoried assets or asset groupings;
    - iii. A certification that the Borrower has evaluated and will be implementing water and energy conservation efforts as part of the plan; and
    - iv. A plan for maintaining, repairing, and, as necessary, replacing the Wastewater Treatment Works assets and a plan for funding such activities.

The Borrower agrees to develop, implement, and provide certification to the NDWEE that their FSP meets these requirements before disbursements exceed 95% of the Project Costs or before final disbursement, whichever occurs first.
  - (3) Cost and Effectiveness Analysis. The Borrower agrees that a cost and effectiveness analysis has been conducted in accordance with the Regulations and Section 2.10(r) of this Loan Agreement, and agrees to provide certification of a cost and effectiveness analysis being completed to the NDWEE before disbursement of construction costs for the Project.
- (f) If a request for disbursement is not received by the NDWEE within eighteen (18) months from either the effective date of this Loan Agreement or the last disbursement request, the NDWEE 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 NDWEE, or at the direction of the NDWEE, 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 NDWEE 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 NDWEE 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 NDWEE 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 NDWEE 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 NDWEE 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 NDWEE 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 NDWEE 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 NDWEE 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 NDWEE 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 provision of Article V of this Loan 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 – October 2025
- (b) Substantial Completion of Construction – February 2027
- (c) Estimated Initiation of Operation – December 2027

**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 Sewer Use Ordinances and User Charge Systems.**

- (a) The Borrower agrees to submit for review to the NDWEE its Sewer User Ordinance and its User Charge System, and to adopt and implement any necessary changes as determined by the NDWEE.
- (b) The Borrower agrees that it shall not modify, amend, make additions to, or deletions from its Sewer Use Ordinance and its User Charge System without the consent of the NDWEE 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 Sewer Use Ordinance, or any ordinance and other agreement pursuant to which any Revenue Obligations have been issued, and for which the revenues of the User Charge Systems have been pledged; or
  - (2) Any increase deemed necessary by the governing body of the Borrower in order to permit the issuance of or provide the payment of Additional Revenue Obligations.

**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 NDWEE concurrence and authorization of the construction agreement.

- (c) Initiation of Operation. The Borrower shall provide written notification to the NDWEE of the date of Initiation of Operation of the Project.
- (d) Construction Completion. The Borrower shall provide written notification to the NDWEE of the construction completion date of the Project.
- (e) Long Term Planning. The Borrower agrees to develop and implement a long-term Wastewater Treatment Works management plan for the term of the Loan, including yearly renewals. This plan shall recognize the cost relationship between the Project and future projects.
- (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 NDWEE in the amount of the bid.
- (g) Certified Operator. The Borrower agrees to provide a certified operator for its Wastewater Treatment Works pursuant to Nebraska Administrative Code, Title 197 - Rules and Regulations for the Certification of Wastewater Treatment Facility Operators in Nebraska.
- (h) Site Title and Easements. The Borrower must certify that site title for all easements and rights-of-way necessary to allow construction of the Project have been obtained prior to award of the construction agreement (i.e., all real property has been acquired, bonafide options have been taken or formal condemnation proceedings have been initiated for necessary real property).
- (i) Contractors 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 NDWEE of its intent to solicit bids for the project and to request the latest State Revolving Fund Federal Assurance Packet from the NDWEE. 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 NDWEE, the Borrower agrees to display a project sign created by the NDWEE. 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 NDWEE 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 NDWEE 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. By accepting this award, the Borrower acknowledges and agrees to the terms and conditions provided in the <https://www.epa.gov/grants/contract-provisions-davis-bacon-and-related-acts>.

Davis-Bacon prevailing wage requirements will apply to the construction, alteration, and repair of "Wastewater Treatment Works", as defined by the Federal Act 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 NDWEE, 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) NDWEE Federal Assurance Package. Before soliciting, The Borrower agrees to contact the NDWEE for the most recent applicable NDWEE Federal Assurance Package and to incorporate the package into the solicitation documents. If the Borrower has failed to incorporate the most recent applicable NDWEE Federal Assurance Package, the Borrower shall either: i) terminate the contract or ordering instrument and issue a revised solicitation, or ii) incorporate the NDWEE 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 "Wastewater Treatment Works", as defined by the Federal Act, the required clauses as listed in most recent applicable NDWEE 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 NDWEE 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 NDWEE 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 NDWEE, 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 NDWEE Federal Assurance Package. In addition:
  - (i) Withholding Payments. The Borrower, upon written request by authorized representatives of the NDWEE, 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 NDWEE.

- (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 NDWEE, 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 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.

- (v) Potential Violations. The Borrower must immediately report potential violations of the Davis-Bacon prevailing wage requirements to the NDWEE, 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 Borrower, 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 “Wastewater Treatment Works”, as defined by the Federal Act, must be constructed pursuant to Public Law 113-76, Consolidated Appropriations Act of 2014, which includes an “American Iron and Steel” requirement. The Borrower agrees to be responsible for and to comply with all American Iron and Steel conditions and requirements pursuant to the Consolidated Appropriations Act of 2014 and agrees to provide written certification of such compliance to the NDWEE after construction completion.
- (r) Cost Effectiveness Analysis. The Borrower agrees to certify that they have:
  - (1) Studied and evaluated the cost and effectiveness of the processes, materials, technique, and technologies for carrying out the proposed project or activity for which assistance is sought under the Water Resources Reform and Development Act of 2014; and
  - (2) Selected, to the maximum extent practicable, a project or activity that maximizes the potential for efficient water use, reuse, recapture, and conservation, and energy conservation, taking into account:
    - (i) The cost of constructing the project or activity;
    - (ii) The cost of operating and maintaining the project or activity over the life of the project or activity; and
    - (iii) The cost of replacing the project or activity.
- (s) 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 NDWEE 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.

- (t) Loan Finalization Date. This Loan Agreement will be considered finalized either upon the date the NDWEE 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.

### **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 its Wastewater Treatment Works, 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 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 NDWEE 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 its Wastewater Treatment Works, 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 NDWEE and is eligible for such reimbursement pursuant to the Regulations. All of such costs constitute Project Costs for which the NDWEE 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 NDWEE, 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 NDWEE, and grants a lien to the NDWEE on, the System 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 Ordinance No. 2024-13 and is secured on a parity with the pledge made under the ordinances described herein. 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 Combined Utilities Systems 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 Combined Utilities Systems, (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 NDWEE on the revenues of the Borrower's Combined Utilities System, shall be on a parity with Existing Obligations and any Additional Revenue Obligations hereafter issued on parity with such Existing

Revenue Bonds. 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 and any other Revenue Obligations of equal lien. 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 Combined Utilities Systems 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 NDWEE 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 NDWEE 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) 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 as set forth on Attachment D of this Loan Agreement, and other NDWEE Regulations); and
- (2) To cooperate with the NDWEE in the observance and performance of the respective duties, covenants, obligations, and agreements of the Borrower and the NDWEE 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 wastewater treatment 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.

(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 NDWEE 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 NDWEE may require.

- (e) Operation and Maintenance of Wastewater Treatment System. The Borrower agrees that it shall, in accordance with prudent wastewater treatment utility practice:

- (1) At all times operate the properties of its Wastewater Treatment Works in an efficient manner; and
- (2) Maintain its Wastewater Treatment Works, 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 Wastewater Treatment Works. The Borrower agrees that it intends to own and operate the Project at all times during the term of the Loan. The Borrower does not know of any reason why the Project will not be so used in the absence of (i) supervening circumstances not anticipated by the Borrower at the time of the Loan, (ii) adverse circumstances beyond the control of the Borrower or (iii) obsolescence of such insubstantial parts or portions of the Project 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 Wastewater Treatment Works except on ninety (90) days' prior written notice to the NDWEE and, in any event, shall not so 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 Wastewater Treatment Works 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 Wastewater Treatment Works to any person or entity other than a municipal corporation or other political subdivision of the State of Nebraska or any combination thereof, which has legal responsibility to treat wastewater.

Before any proposed disposition of the Wastewater Treatment Works can be made, the Borrower shall provide the NDWEE with (i) an opinion of counsel, satisfactory to the NDWEE, that such proposed disposition is permitted by the provisions of this Loan Agreement, and (ii) if any such proposed disposition includes a portion of the Project financed by the Loan, an opinion of a nationally recognized bond counsel, satisfactory to the NDWEE, that such disposition will not adversely affect the exclusion from gross income for federal income tax purposes of the interest on any bonds issued to fund deposits into the Fund. No disposition of all or any portion of the Wastewater Treatment Works shall 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 its Wastewater Treatment System (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 NDWEE at any reasonable time. The Borrower shall, upon written request by the NDWEE 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 NDWEE a copy of the audit report, provided such audit shall not be due to the NDWEE 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 one million dollars (\$1,000,000) during the Borrower's fiscal year, then the Borrower shall, irrespective of any request from the NDWEE, provide the NDWEE 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 NDWEE, any requirement herein to perform and/or provide an audit at the request of the NDWEE may be waived by the NDWEE 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 NDWEE under this Loan or for any other reason acceptable to the NDWEE.

- (h) Inspections; Information. The Borrower shall permit the EPA, the NDWEE, and any party designated by the NDWEE 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 NDWEE may reasonably require in connection therewith.
- (i) Financial Information. The Borrower specifically agrees to provide to the NDWEE a reasonable number of copies of such financial information and operating data of the Borrower and the Wastewater Treatment Facility and/or Works and the prompt notification of the occurrence of certain material events, to the extent necessary for the NDWEE 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 NDWEE 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 Wastewater Treatment Works as would be carried by similar sized Wastewater Treatment Works, 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.
- (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 NDWEE of any material adverse change in the activities, prospects, or condition (financial or otherwise) of the Borrower's Wastewater Treatment Works, 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 I, Other Documents.

## **ARTICLE IV**

### **ASSIGNMENT**

**Section 4.01. Assignment and Transfer by the NDWEE.** The Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the NDWEE 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 the 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 NDWEE 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 responsibility to treat wastewater;
- (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 NDWEE's ability to meet its duties, covenants, and obligations under any Pledge Agreement as determined in writing by the NDWEE;
- (e) The assignment will not adversely affect the exclusion from gross income for federal tax purposes of the interest on any bonds issued by the NIFA to fund deposits into the Fund; and
- (f) The Borrower shall provide the NDWEE, and the NIFA if the NIFA is an assignee of the Note, with:
  - (1) An opinion of a qualified attorney satisfactory to the NDWEE that each of the conditions set forth in Section 4.02(b) and Section 4.02(c) of this Loan Agreement has been met, and;
  - (2) An opinion of nationally recognized bond counsel satisfactory to the NDWEE that the condition set forth in Section 4.02(e) of this Loan Agreement 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 provisions of this Loan Agreement; (ii) 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 NDWEE; and (iv) a 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 NDWEE 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 NDWEE, the NDWEE 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 NDWEE 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 NDWEE 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 NDWEE 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 NDWEE the reasonable fees and expenses incurred by the NDWEE 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 NDWEE shall provide copies of statements evidencing the fees and expenses for which the NDWEE is requesting payment.

**Section 5.05. Application of Moneys.** Any moneys collected by the NDWEE 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 of this Loan Agreement; and
- (e) Fifth, to pay any other amounts due and payable hereunder as such amounts become due and payable. To the extent that the NDWEE'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 Borrower's System 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 NDWEE 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 NDWEE, 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 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 NDWEE, at the following addresses:

(a) BORROWER

City of South Sioux City  
1615 1<sup>st</sup> Ave.  
South Sioux City, NE 68776-2245

Phone: (402) 494-7500

(b) THE NDWEE

Nebraska Department of Water, Energy, and Environment  
245 Fallbrook Blvd., Suite 100  
Lincoln, NE 68521  
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 NDWEE 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 NDWEE and the Borrower and their respective successors and assignees.

**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 NDWEE.

**Section 6.10. Further Assurances.** The Borrower shall, at the request of the NDWEE, 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 the NIFA which may occur from time to time and thereafter, the NDWEE shall deliver a notice of this Loan in the form prescribed by the NIFA, and other pertinent information relating thereto, to the Trustee for any bonds of the NIFA issued to fund deposits into the Fund.

**Section 6.12. Finalizing, Closing, and Termination of the Loan Agreement.** The NDWEE reserves the right to finalize and close, or terminate this Loan Agreement for cause at any point during the term of the loan. Before any action is taken, the NDWEE shall give no less than 30 days written notice of the NDWEE's intent to the Borrower. Following the final disbursement of Loan proceeds to the Borrower, the NDWEE 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. Electronic Signature.** The NDWEE 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 CITY OF SOUTH SIOUX CITY 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 NDWEE.

**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.

CITY OF SOUTH SIOUX CITY,  
NEBRASKA

NEBRASKA DEPARTMENT OF WATER,  
ENERGY, AND ENVIRONMENT

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

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

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

Title \_\_\_\_\_  
Mayor

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 -	Resolution
Attachment I -	Additional Documents

## EXHIBIT 1

### PROJECT DESCRIPTION

This project consists of the expansion of South Sioux City's wastewater treatment facility (WWTF). This will include upgrades to influent lines, preliminary treatment screening and grit removal, aerobic granular sludge basins, new blowers housing for aeration, and an ultraviolet disinfection chamber. Associated foundations, site work, electrical, instrumentation and controls, and mechanical systems will also be incorporated into the expansion. Project also includes the rehabilitation and utilization of a Renewable Energy Processing Plant (REPP). In addition, the local sewer collection system will also be renovated addressing sanitary sewer system, improvements to existing lift stations, and new pipelines for conveyance of domestic wastewater. 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 June 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 NDWEE'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 NDWEE 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 NDWEE based on the following parameters:

- (1) Final principal amount of Loan;
- (2) Amount of Subsidies, if any;
- (3) Interest rate as set forth in Section 2.03;
- (4) Administrative fee rate as set forth in Section 2.04; and
- (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:	\$ 22,500,000	INTEREST RATE (%):	0.75
LOAN FORGIVENESS:	\$ -	ADMIN FEE (%):	0.75
SMALL TOWN GRANT:	\$ -	TERM (YEARS):	30
TOTAL SRF ASSISTANCE:	\$ 22,500,000		

Principal Payment	Principal	Principal Payment	Interest	Admin Fee	Total Payment	Remaining Principal
6/15/2021	\$ 22,500,000.00	\$ 335,092.93	\$ 84,375.00	\$ 84,375.00	\$ 503,842.93	\$ 22,164,907.07
12/15/2021	\$ 22,164,907.07	\$ 336,349.53	\$ 83,118.40	\$ 83,118.40	\$ 502,586.33	\$ 21,828,557.54
6/15/2022	\$ 21,828,557.54	\$ 337,610.84	\$ 81,857.09	\$ 81,857.09	\$ 501,325.02	\$ 21,490,946.69
12/15/2022	\$ 21,490,946.69	\$ 338,876.88	\$ 80,591.05	\$ 80,591.05	\$ 500,058.98	\$ 21,152,069.81
6/15/2023	\$ 21,152,069.81	\$ 340,147.67	\$ 79,320.26	\$ 79,320.26	\$ 498,788.19	\$ 20,811,922.14
12/15/2023	\$ 20,811,922.14	\$ 341,423.22	\$ 78,044.71	\$ 78,044.71	\$ 497,512.64	\$ 20,470,498.91
6/15/2024	\$ 20,470,498.91	\$ 342,703.56	\$ 76,764.37	\$ 76,764.37	\$ 496,232.30	\$ 20,127,795.35
12/15/2024	\$ 20,127,795.35	\$ 343,988.70	\$ 75,479.23	\$ 75,479.23	\$ 494,947.17	\$ 19,783,806.65
6/15/2025	\$ 19,783,806.65	\$ 345,278.66	\$ 74,189.27	\$ 74,189.27	\$ 493,657.21	\$ 19,438,527.99
12/15/2025	\$ 19,438,527.99	\$ 346,573.45	\$ 72,894.48	\$ 72,894.48	\$ 492,362.41	\$ 19,091,954.54
6/15/2026	\$ 19,091,954.54	\$ 347,873.10	\$ 71,594.83	\$ 71,594.83	\$ 491,062.76	\$ 18,744,081.44
12/15/2026	\$ 18,744,081.44	\$ 349,177.63	\$ 70,290.31	\$ 70,290.31	\$ 489,758.24	\$ 18,394,903.81
6/15/2027	\$ 18,394,903.81	\$ 350,487.04	\$ 68,980.89	\$ 68,980.89	\$ 488,448.82	\$ 18,044,416.77
12/15/2027	\$ 18,044,416.77	\$ 351,801.37	\$ 67,666.56	\$ 67,666.56	\$ 487,134.50	\$ 17,692,615.40
6/15/2028	\$ 17,692,615.40	\$ 353,120.63	\$ 66,347.31	\$ 66,347.31	\$ 485,815.24	\$ 17,339,494.77
12/15/2028	\$ 17,339,494.77	\$ 354,444.83	\$ 65,023.11	\$ 65,023.11	\$ 484,491.04	\$ 16,985,049.94
6/15/2029	\$ 16,985,049.94	\$ 355,774.00	\$ 63,693.94	\$ 63,693.94	\$ 483,161.87	\$ 16,629,275.95
12/15/2029	\$ 16,629,275.95	\$ 357,108.15	\$ 62,359.78	\$ 62,359.78	\$ 481,827.72	\$ 16,272,167.80
6/15/2030	\$ 16,272,167.80	\$ 358,447.30	\$ 61,020.63	\$ 61,020.63	\$ 480,488.56	\$ 15,913,720.50
12/15/2030	\$ 15,913,720.50	\$ 359,791.48	\$ 59,676.45	\$ 59,676.45	\$ 479,144.38	\$ 15,553,929.02
6/15/2031	\$ 15,553,929.02	\$ 361,140.70	\$ 58,327.23	\$ 58,327.23	\$ 477,795.17	\$ 15,192,788.32
12/15/2031	\$ 15,192,788.32	\$ 362,494.98	\$ 56,972.96	\$ 56,972.96	\$ 476,440.89	\$ 14,830,293.34
6/15/2032	\$ 14,830,293.34	\$ 363,854.33	\$ 55,613.60	\$ 55,613.60	\$ 475,081.53	\$ 14,466,439.01
12/15/2032	\$ 14,466,439.01	\$ 365,218.79	\$ 54,249.15	\$ 54,249.15	\$ 473,717.08	\$ 14,101,220.22
6/15/2033	\$ 14,101,220.22	\$ 366,588.36	\$ 52,879.58	\$ 52,879.58	\$ 472,347.51	\$ 13,734,631.86
12/15/2033	\$ 13,734,631.86	\$ 367,963.06	\$ 51,504.87	\$ 51,504.87	\$ 470,972.80	\$ 13,366,668.80
6/15/2034	\$ 13,366,668.80	\$ 369,342.92	\$ 50,125.01	\$ 50,125.01	\$ 469,592.94	\$ 12,997,325.87
12/15/2034	\$ 12,997,325.87	\$ 370,727.96	\$ 48,739.97	\$ 48,739.97	\$ 468,207.90	\$ 12,626,597.91
6/15/2035	\$ 12,626,597.91	\$ 372,118.19	\$ 47,349.74	\$ 47,349.74	\$ 466,817.68	\$ 12,254,479.72
12/15/2035	\$ 12,254,479.72	\$ 373,513.63	\$ 45,954.30	\$ 45,954.30	\$ 465,422.23	\$ 11,880,966.09
6/15/2036	\$ 11,880,966.09	\$ 374,914.31	\$ 44,553.62	\$ 44,553.62	\$ 464,021.56	\$ 11,506,051.78
12/15/2036	\$ 11,506,051.78	\$ 376,320.24	\$ 43,147.69	\$ 43,147.69	\$ 462,615.63	\$ 11,129,731.54
6/15/2037	\$ 11,129,731.54	\$ 377,731.44	\$ 41,736.49	\$ 41,736.49	\$ 461,204.43	\$ 10,752,000.10
12/15/2037	\$ 10,752,000.10	\$ 379,147.93	\$ 40,320.00	\$ 40,320.00	\$ 459,787.93	\$ 10,372,852.17
6/15/2038	\$ 10,372,852.17	\$ 380,569.74	\$ 38,898.20	\$ 38,898.20	\$ 458,366.13	\$ 9,992,282.43
12/15/2038	\$ 9,992,282.43	\$ 381,996.87	\$ 37,471.06	\$ 37,471.06	\$ 456,938.99	\$ 9,610,285.56
6/15/2039	\$ 9,610,285.56	\$ 383,429.36	\$ 36,038.57	\$ 36,038.57	\$ 455,506.50	\$ 9,226,856.19
12/15/2039	\$ 9,226,856.19	\$ 384,867.22	\$ 34,600.71	\$ 34,600.71	\$ 454,068.64	\$ 8,841,988.97
6/15/2040	\$ 8,841,988.97	\$ 386,310.47	\$ 33,157.46	\$ 33,157.46	\$ 452,625.39	\$ 8,455,678.50
12/15/2040	\$ 8,455,678.50	\$ 387,759.14	\$ 31,708.79	\$ 31,708.79	\$ 451,176.73	\$ 8,067,919.36
6/15/2041	\$ 8,067,919.36	\$ 389,213.24	\$ 30,254.70	\$ 30,254.70	\$ 449,722.63	\$ 7,678,706.12
12/15/2041	\$ 7,678,706.12	\$ 390,672.78	\$ 28,795.15	\$ 28,795.15	\$ 448,263.08	\$ 7,288,033.34
6/15/2042	\$ 7,288,033.34	\$ 392,137.81	\$ 27,330.13	\$ 27,330.13	\$ 446,798.06	\$ 6,895,895.53
12/15/2042	\$ 6,895,895.53	\$ 393,608.32	\$ 25,859.61	\$ 25,859.61	\$ 445,327.54	\$ 6,502,287.21
6/15/2043	\$ 6,502,287.21	\$ 395,084.36	\$ 24,383.58	\$ 24,383.58	\$ 443,851.51	\$ 6,107,202.85
12/15/2043	\$ 6,107,202.85	\$ 396,565.92	\$ 22,902.01	\$ 22,902.01	\$ 442,369.94	\$ 5,710,636.93
6/15/2044	\$ 5,710,636.93	\$ 398,053.04	\$ 21,414.89	\$ 21,414.89	\$ 440,882.82	\$ 5,312,583.88
12/15/2044	\$ 5,312,583.88	\$ 399,545.74	\$ 19,922.19	\$ 19,922.19	\$ 439,390.12	\$ 4,913,038.14
6/15/2045	\$ 4,913,038.14	\$ 401,044.04	\$ 18,423.89	\$ 18,423.89	\$ 437,891.83	\$ 4,511,994.10
12/15/2045	\$ 4,511,994.10	\$ 402,547.96	\$ 16,919.98	\$ 16,919.98	\$ 436,387.91	\$ 4,109,446.15
6/15/2046	\$ 4,109,446.15	\$ 404,057.51	\$ 15,410.42	\$ 15,410.42	\$ 434,878.36	\$ 3,705,388.64
12/15/2046	\$ 3,705,388.64	\$ 405,572.73	\$ 13,895.21	\$ 13,895.21	\$ 433,363.14	\$ 3,299,815.91
6/15/2047	\$ 3,299,815.91	\$ 407,093.62	\$ 12,374.31	\$ 12,374.31	\$ 431,842.24	\$ 2,892,722.29
12/15/2047	\$ 2,892,722.29	\$ 408,620.22	\$ 10,847.71	\$ 10,847.71	\$ 430,315.64	\$ 2,484,102.06
6/15/2048	\$ 2,484,102.06	\$ 410,152.55	\$ 9,315.38	\$ 9,315.38	\$ 428,783.32	\$ 2,073,949.51
12/15/2048	\$ 2,073,949.51	\$ 411,690.62	\$ 7,777.31	\$ 7,777.31	\$ 427,245.24	\$ 1,662,258.89
6/15/2049	\$ 1,662,258.89	\$ 413,234.46	\$ 6,233.47	\$ 6,233.47	\$ 425,701.40	\$ 1,249,024.43
12/15/2049	\$ 1,249,024.43	\$ 414,784.09	\$ 4,683.84	\$ 4,683.84	\$ 424,151.77	\$ 834,240.34
6/15/2050	\$ 834,240.34	\$ 416,339.53	\$ 3,128.40	\$ 3,128.40	\$ 422,596.33	\$ 417,900.80
12/15/2050	\$ 417,900.80	\$ 417,900.80	\$ 1,567.13	\$ 1,567.13	\$ 421,035.06	\$ (0.00)
TOTAL:		\$ 22,500,000	\$ 2,668,075.98	\$ 2,668,075.98	\$ 27,836,151.95	



## ATTACHMENT B

### PROJECT COSTS

<u>COST CLASSIFICATION</u>	<u>ESTIMATED TOTAL COST</u>
1) Administrative and legal expenses	\$ 100,000
2) Land, structures, right-of-ways, appraisals, etc.	\$ -
3) Relocation expenses and payments	\$ -
4) Architectural and engineering fees	\$ 4,965,262
5) Project inspection fees	\$ 4,634,738
6) Site work, demolition and removal	\$ -
7) Construction	\$ 52,000,000
8) Equipment	\$ -
9) Miscellaneous	\$ 300,000
<b>10) SUBTOTAL</b> (sum of lines 1-9)	<b>\$ 62,000,000</b>
11) Contingencies	\$ 2,000,000
<b>12) SUBTOTAL</b> (sum of lines 10-11)	<b>\$ 64,000,000</b>
Less project (program) income	
<b>TOTAL PROJECT COSTS</b> (line 12 minus 13)	<b>\$ 64,000,000</b>
<u>SOURCE OF FUNDS</u>	
NDEE CWSRF Loan (Principal)	\$ 22,500,000
Water Infrastructure Finance and Innovation Act (WIFIA)	\$ 41,500,000
<b>TOTAL PROJECT ASSISTANCE</b>	<b>\$ 64,000,000</b>

*Categories of loan eligibility are established by the Federal Act, the state Act, and state Regulation. Eligible items shall not include the costs of water rights, legal costs, fiscal agent's fees, operation and maintenance costs, and municipal or county administrative costs.*

### OUTLAY SCHEDULE

	<b>2025</b>	<b>2026</b>	<b>2027</b>
January	\$ -	\$ 698,898	\$ -
February	\$ -	\$ 698,898	\$ -
March	\$ -	\$ 698,898	\$ -
April	\$ -	\$ 958,593	\$ -
May	\$ -	\$ 958,593	\$ -
June	\$ -	\$ 958,593	\$ -
July	\$ -	\$ 1,809,043	\$ -
August	\$ -	\$ 1,809,043	\$ -
September	\$ -	\$ 1,809,043	\$ -
October	\$ 1,755,087	\$ 2,278,379	\$ -
November	\$ 1,755,087	\$ 2,278,379	\$ -
December	\$ 1,755,087	\$ 2,278,379	\$ -
<b>YEARLY TOTAL</b>	<b>\$ 5,265,261</b>	<b>\$ 17,234,739</b>	<b>\$ -</b>
<b>TOTAL OUTLAY</b>	<b>\$ 22,500,000</b>		

## ATTACHMENT C

### **FINANCIAL CAPABILITIES ANALYSIS**

An abbreviated financial analysis, as created by the NDWEE, is hereby presented. This is a general assessment of the Borrower's financial capabilities and potential impact of the Loan Agreement on the Borrower. The Borrower is ultimately responsible for tracking and balancing financial abilities and ensuring proper debt service coverage for the SRF Loan. The documents reviewed and used to complete this analysis are:

1. Audit reports of the City of South Sioux City, for the years 2022 through 2024;
2. Water/Wastewater Pre-application for Federal/State Assistance; and
3. Miscellaneous correspondence from City/Village of Borrower's Name in project file.

### **Analysis of the Sewer / Combined Utility:**

The City of South Sioux City manages and operates a Wastewater Treatment Works as part of a combined utility. Sewer revenues and expenses are tracked separately in the audit. Table 1 displays the city's general gross profit of their revenue and expenses operation for their User Charge System.

**Table 1**  
**Annual Sewer Revenue**

Year	Revenue (includes interest income)	Expenses (excludes depreciation)	Gross Profit (Revenue minus Expenses)
2022	\$5,409,913	\$4,003,628	\$1,406,285
2023	\$6,023,437	\$3,336,692	\$2,686,745
2024	\$7,510,531	\$4,235,259	\$3,275,272

The City of South Sioux City manages their sewer as a combined utility (hereinafter "utility") which generates revenue by assessing use fees on the residents and businesses. The revenue stream goes towards paying for the operation and maintenance expenses incurred to operate the utility. Sewer use revenues will be used to pay the debt service due to the proposed utility loan.

As of September 30, 2024, the city has the following listed as their long-term debt:

#### **Revenue Bonds**

The City also has issued revenue bonds where the City pledges income derived from the acquired or constructed asset to pay debt service. The City has pledged future combined utility revenues, net of specified operating expenses, to repay outstanding combined utility revenue bonds. The bonds are payable solely from the combined utilities net revenues and are payable through 2037. In 2024, the City issued an additional \$4,215,777 of bonds. The total principal and interest remaining to be paid on the bonds is \$60,914,484. Principal and interest paid for the current year, excluding principal paid on bonds refunded, and total combined utilities net revenues were \$3,895,103 and \$11,306,535, respectively. For the year ended September 30, 2024, the annual principal and interest payments required approximately 34.5% percent of net revenues.

The City has issued state revolving revenue bonds from the Nebraska Department of Environmental Quality (NDEQ) for various utility improvements. These revenue bonds are considered direct borrowings with the NDEQ. The loan agreement includes a provision that in the event of default the payment due shall be deducted from the amount of aid to municipalities to which the Borrower is entitled under Neb. Rev. Stat Section 72-1503. Such amount shall be paid directly to the fund.

On January 17, 2020, the City Council approved water revenue bonds not to exceed \$5,600,000 from the NDEQ to finance the building of a 2.5-million-gallon water tank. The revenue bond has an interest rate of 1.5% and is set to have semi-annual payments of \$116,247 starting in June 2022. This bond is expected to be paid off in December 2044. In fiscal year 2024, the City drew down \$33,498 in bond proceeds.

On April 13, 2020, the City Council approved sewer revenue bonds not to exceed \$31,591,000 from the NDEQ to finance the building of a new wastewater treatment plant. This agreement was amended to increase the loan amount not to exceed \$38,591,000. The revenue bond has an interest rate of 0.5% and is set to have semi-annual payments of \$693,430 starting in December 2022. This bond is expected to be paid off in June 2052. In fiscal year 2024, the City drew down \$4,182,279 in bond proceeds.

In November 2021, the City issued \$3,485,000 of combined utility revenue bonds to refund the series 2015B and 2016A revenue bonds. The difference between the cash flows required to service the old debt and the new debt is \$528,377 and the city has an economic gain of \$343,502.

Revenue bonds outstanding at September 30, 2024 are as follows:

**Business-Type Activities:**

<u>Purpose - Bonds</u>	<u>Interest Rates</u>	<u>Amounts</u>
Combined Utility Refunding Bond	1.05-2.45%	\$ 2,935,000
Combined Utility Refunding Bond	1.45-2.25%	3,110,000
Combined Utility Bonds	0.70-2.30%	3,885,000
Combined Utility Bonds	0.45-2.20%	2,975,000
<b>Total Bonds</b>		<b>12,905,000</b>
<u>Purpose - Direct Borrowing</u>		
Combined Utility SRF	3.65%	946,574
Combined Utility SRF	1.32%	637,846
Combined Utility SRF	2.50%	704,851
Combined Utility SRF	2.00%	566,525
Combined Utility SRF	1.50%	949,482
Combined Utility SRF	1.50%	3,637,750
Combined Utility SRF	0.50%	34,652,820
<b>Total Direct Borrowing</b>		<b>42,095,848</b>
<b>Grand Total Revenue Bonds</b>		<b>\$ 55,000,848</b>

Revenue bond debt service requirements to maturity are as follows:

<u>Year Ending</u> <u>September 30,</u>	<u>Business-Type Activities</u>		<u>Business-Type Activities</u> <u>- Direct Borrowing</u>		<u>Total</u>	
	<u>Principal</u>	<u>Interest</u>	<u>Principal</u>	<u>Interest</u>	<u>Principal</u>	<u>Interest</u>
2025	\$ 1,735,000	\$ 236,027	\$ 1,365,106	\$ 209,833	\$ 3,100,106	\$ 445,860
2026	1,595,000	207,595	1,307,501	265,290	2,902,501	472,885
2027	1,745,000	179,675	1,316,205	254,422	3,061,205	434,097
2028	1,415,000	148,160	1,324,986	243,457	2,739,986	391,617
2029	975,000	123,300	1,333,847	232,395	2,308,847	355,695
2030-2034	3,790,000	385,073	5,412,004	1,019,801	9,202,004	1,404,874
2035-2039	1,650,000	64,580	4,742,179	832,430	6,392,179	897,010
2040-2044	-	-	4,573,554	691,204	4,573,554	691,204
2045-2049	-	-	4,713,746	551,011	4,713,746	551,011
2050-2054	-	-	16,006,720	269,383	16,006,720	269,383
	<b>\$12,905,000</b>	<b>\$1,344,410</b>	<b>\$42,095,848</b>	<b>\$4,569,226</b>	<b>\$55,000,848</b>	<b>\$ 5,913,636</b>

The city is eligible for a 30-year SRF loan at a per annum interest rate of 0.75 percent plus an annual 0.75 percent administrative fee on the outstanding principal amount. The SRF offers loan funding assistance for a principal amount of \$22,500,000 at an annual debt service of \$1,006,430 plus the SRF Loan Agreement required 10% coverage (\$100,643), for delinquency or loss of users, as shown in the following table, totaling \$1,107,073 for the first-year debt service, including coverage.

**Table 2**  
**SRF Loan C318077: Principal Loan of \$22,500,000.**

SRF Loan Term (Years)	Interest Rate	Interest Rate	Estimated First Year Payment	First Year Payment + 10% Coverage
30	0.75%	0.75%	\$1,006,430	\$1,107,073

The revenues from the city's utility will be dedicated to repaying the loan. The projected annual SRF Debt Service (including 10% coverage) for the project is \$1,107,073. The number of connections is estimated at 3,553 total connections. The current utility user charge is estimated to be \$60.50 per month per residential customers. Using the estimated number of connections, a minimum of \$25.97 per month per connection would be needed for loan debt service (including 10% coverage). For utility revenue to continue without impact from loan debt service, the new average user rate should be increased and is estimated to be \$86.47 per month, or \$311.59 annually. A final assessment of revenues and costs will be analyzed to determine the actual user charge adjustment as necessary.

This projected household sewer rate total is 1.66% of the city's median household income of \$62,650 and is below EPA's 2.0% upper level of sewer upper level of sewer rate affordability. In addition, the project is scheduled to receive additional funding consisting of \$41.5 million in Water Infrastructure Finance and Innovation Act (WIFIA) assistance. Combining that funding will have a further increase in the user rates as WIFIA's borrower rate will be equal to or greater than the U.S. Treasury rate of similar maturity at the date of closing.

## 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 Clean Water State Revolving Loan Fund #CS – 310001

*\*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**

\_\_\_\_\_, 2025

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

Ladies and Gentlemen:

I have acted as Bond Counsel in connection with the execution and delivery by City of South Sioux City (the "Borrower"), of an Agreement for Loan No. C318077 (the "Loan Agreement") between the Borrower and the Nebraska Department of Water, Energy, and Environment ("NDWEE") and the issuance of a promissory note (the "Note") by the Borrower to the NDWEE. 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 proceedings of the Mayor and Council of the Municipality showing the passage and approval of Ordinance No. 2024-13 on September 9, 2024, authorizing the Note and the Loan Agreement (the "Ordinance"), as certified by the City Clerk of the Municipality;
- (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 our opinion, we have relied upon the covenants and representations set forth in the Loan Agreement, 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 as of the date hereof and under existing law that:

1. The Municipality is a city of the first class duly organized and validly existing under the laws of the State of Nebraska.
2. The Municipality 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 Municipality 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 "Loan 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 Municipality and are, and would be if the entire Loan Amount were advanced to the Municipality pursuant to the Loan Agreement on the date of this opinion, valid and legally binding special obligations of the Municipality, payable solely from the sources provided therefor in the Loan Agreement, enforceable 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 to Neb. Rev. Stat. §18-1803 through 18-1805 and all other applicable statutes governing eligible municipalities, the Ordinance and the Loan Agreement create a valid lien on the funds pledged by the Municipality pursuant to Section 3.02 of the Loan Agreement for the security of the Loan Agreement and the Note and no other debt of the Municipality is secured by a superior lien on such funds.

6. The Municipality has obtained or made all approvals, authorizations, consents or other actions of, and filings, registrations or qualifications with, the Municipality or any other government authority which are legally required to allow the Municipality to enter into and perform its obligations under the Loan Agreement and the Note and borrow the full Loan Amount pursuant to the Loan Agreement and the Note.

It is to be understood that the rights of the holder of the Note and the Loan Agreement and the priorities and enforceability thereof may be subject to bankruptcy, insolvency, reorganization, moratorium, extension, compromise and other similar laws affecting creditors' rights heretofore or hereafter enacted to the extent applicable and that their priorities and enforcement may also be subject to the exercise of judicial discretion in appropriate cases.

This opinion letter, and the opinions expressed in it, are intended only for the benefit of the addressees identified on the first page hereof. No other person may rely on any opinion expressed without our prior written authorization.

Very truly yours,

BAIRD HOLM LLP

By:

6842438.1



ATTACHMENT F

**PROMISSORY NOTE OF THE CITY OF SOUTH SIOUX CITY, 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 Water, Energy, and Environment ("NDWEE"), or its successors and assigns, the principal sum of not to exceed \$22,500,000 [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. C318077 ("the Loan Agreement"), with interest on each such amount until paid, pursuant to Section 2.03 of the Loan Agreement between the NDWEE 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 NDWEE 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 NDWEE may designate in writing.

This Note is issued pursuant to and is secured by the Loan Agreement and Ordinance (as defined in the Loan Agreement) of the City of South Sioux City, 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 System Revenues (as defined in the Loan Agreement) on parity with the Existing Revenue Obligations (as defined in the Loan Agreement) and any Additional Revenue Obligations (as defined in the Loan Agreement hereafter issued, 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, 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.

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)

CITY OF SOUTH SIOUX CITY, NEBRASKA

NEBRASKA DEPARTMENT OF WATER,  
ENERGY, AND ENVIRONMENT

Attest:	_____	_____	_____
	(signature)	(signature)	(signature)
Title	Clerk	Mayor	Director
Date	_____	_____	_____

Loan: C318077  
City of South Sioux City

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Loan Version: 14:07.01.2025

ATTACHMENT F

**PROMISSORY NOTE OF THE CITY OF SOUTH SIOUX CITY, 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 NDWEE 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 NDWEE hereby assigns, grants and conveys any and all of the NDWEE'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 (page 1 of Attachment F), sign, date, and seal (if applicable).** Then mail in to:

Date \_\_\_\_\_  
Nebraska Department of Environment & Energy  
ATTN: SRF PROGRAM – Steve McNulty  
245 Fallbrook Blvd., Suite 100  
Lincoln, NE 68521

Please leave the 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 CITY OF SOUTH SIOUX CITY**

The following certifications are made in connection with the Agreement for Loan No. C318077 (the "Loan Agreement") between the Nebraska Department of Water, Energy, and Environment ("NDWEE") and the City of South Sioux City, 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 NDWEE, 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 and will be owned and operated by the Borrower. 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 \_\_\_\_\_.

City of South Sioux City, Nebraska

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

Title \_\_\_\_\_ <sup>(signature)</sup> Mayor

Date \_\_\_\_\_

ATTACHMENT H

RESOLUTION \_\_\_\_\_

WHEREAS, the City of South Sioux City, Nebraska recognizes that a properly functioning sanitary sewer system is necessary to the health and welfare of the citizens of the City; and

WHEREAS, the Mayor and City Board of Trustees have determined that portions of the City sanitary sewer system are in need of significant repair and improvement; and

WHEREAS, funding for the cost of the repair and improvement of portions of the City sanitary sewer system may be obtained by loan from the Nebraska Department of Water, Energy, and Environment, subject to certain requirements and obligations; and

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Board of Trustees of the City of South Sioux City, Nebraska that they should execute the contract for loan between the Nebraska Department of Water, Energy, and Environment and the City of South Sioux City, Nebraska designated as Project No. C318077, incorporated by reference into this Resolution as if fully set forth; and

BE IT FURTHER RESOLVED, \_\_\_\_\_, Mayor, is hereby directed to execute the Agreement and all other documents necessary to facilitate the Loan between the Nebraska Department of Water, Energy, and Environment and the City of South Sioux City, Nebraska for the purpose of repairing and improving the City's sanitary sewer system; and

BE IT FURTHER RESOLVED THAT \_\_\_\_\_, Clerk, be authorized and directed to sign all necessary documents, to furnish such assurances to the State of Nebraska as may be required by law or regulations, and to receive payment on behalf of the applicant.

HEREBY the RESOLUTION has passed and approved as of \_\_\_\_\_.

City of South Sioux City, Nebraska

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

Title \_\_\_\_\_ Mayor

Date \_\_\_\_\_

IN WITNESS WHEREOF, I have hereunto set my hand and seal this day of \_\_\_\_\_.

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

Title \_\_\_\_\_ Clerk

**ATTACHMENT I**

**ADDITIONAL DOCUMENTS**

Attachment I.01 –Ordinance #2024-13

## EXTRACT FROM MINUTES

A regular meeting of the Mayor and City Council of the City of South Sioux City, Nebraska, was held at the City Hall Council Chambers on the 9th day of Sept., 2024, at 5:00 o'clock p.m.

Present were: Mayor: Rod Koch \_\_\_\_\_; Council Members: Monty Peters, Dan Bousquet, Jasper Kriens, Rick Bousquet, Carol Schuldt and Jim Gunsolley \_\_\_\_\_. Absent: Ben Schultz and Jason Bowman

Notice of the meeting was given in advance thereof by publication, the designated method for giving notice, as shown by the Affidavit of Publication attached to these minutes. Notice of this meeting was given to the Mayor and all members of the Council and a copy of their acknowledgment of receipt of notice and the agenda is attached to the minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the attendance of the public. At the beginning of the meeting, the Mayor publicly stated to all in attendance that a current copy of the Nebraska Open Meetings Act was available for review and indicated the location of such copy posted in the room where the meeting was being held.

A discussion was held concerning the financing to be provided for the City by the Nebraska Department of Environment and Energy for the purpose of making additions and improvements to the City's sewer system. Council Member \_\_\_\_\_ then introduced Ordinance No. 2024-13 entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A COMBINED ELECTRIC, WATER AND SEWER REVENUE BOND, 2024A SERIES, OF THE CITY OF SOUTH SIOUX CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF TWENTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$22,500,000), IN THE FORM OF A PROMISSORY NOTE ISSUED

TO EVIDENCE INDEBTEDNESS TO THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY; APPROVING THE FORM OF SAID BOND (ISSUED AS A SINGLE PROMISSORY NOTE) AND RELATED LOAN CONTRACT; PLEDGING AND HYPOTHECATING THE REVENUES AND EARNINGS OF THE ELECTRIC LIGHT AND POWER DISTRIBUTION SYSTEM, THE WATERWORKS PLANT AND WATER SYSTEM AND SANITARY SEWER SYSTEM OWNED OR TO BE OWNED BY THE CITY FOR THE PAYMENT OF SAID BOND; PROVIDING FOR THE ISSUANCE AND SALE OF SAID BOND; AUTHORIZING THE DELIVERY OF SAID BOND TO THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY; DETERMINING THAT INTEREST ON SAID BOND SHALL NOT BE EXCLUDABLE FROM GROSS INCOME FOR PURPOSES OF FEDERAL INCOME TAXATION; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF SAID BOND AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

and Council Member \_\_\_\_\_ moved that the statutory rule requiring reading on three different days be suspended. Council Member \_\_\_\_\_ seconded the motion to suspend the rules and upon roll call vote on the motion the following Council Members voted YEA: \_\_\_\_\_. The \_\_\_\_\_ . The following voted NAY: \_\_\_\_\_. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Council Member Kriens moved for final passage of the ordinance, which motion was seconded by Council Member Peters. The Mayor then stated the question was "Shall Ordinance No. 2024-13 be passed and adopted?" Upon roll call vote, the following Council Members voted YEA: Kriens, Gunsolley, Schuldt, R. Bousquet, Peters, D. Bousquet \_\_\_\_\_. The following voted NAY: none \_\_\_\_\_. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor in the presence of the Council signed and approved the ordinance and the Clerk attested the passage and



approval of the same and affixed such Clerk's signature thereto and ordered the ordinance to be published as provided therein. A true, correct and complete copy of said ordinance is as follows:

**ORDINANCE NO. 2024-13**

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A COMBINED ELECTRIC, WATER AND SEWER REVENUE BOND, 2024A SERIES, OF THE CITY OF SOUTH SIOUX CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF TWENTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$22,500,000), IN THE FORM OF A PROMISSORY NOTE ISSUED TO EVIDENCE INDEBTEDNESS TO THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY; APPROVING THE FORM OF SAID BOND (ISSUED AS A SINGLE PROMISSORY NOTE) AND RELATED LOAN CONTRACT; PLEDGING AND HYPOTHECATING THE REVENUES AND EARNINGS OF THE ELECTRIC LIGHT AND POWER DISTRIBUTION SYSTEM, THE WATERWORKS PLANT AND WATER SYSTEM AND SANITARY SEWER SYSTEM OWNED OR TO BE OWNED BY THE CITY FOR THE PAYMENT OF SAID BOND; PROVIDING FOR THE ISSUANCE AND SALE OF SAID BOND; AUTHORIZING THE DELIVERY OF SAID BOND TO THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY; DETERMINING THAT INTEREST ON SAID BOND SHALL NOT BE EXCLUDABLE FROM GROSS INCOME FOR PURPOSES OF FEDERAL INCOME TAXATION; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF SAID BOND AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF SOUTH SIOUX CITY, NEBRASKA, AS FOLLOWS:

Section 1. The Mayor and Council of the City of South Sioux City, Nebraska (the "City") hereby find and determine as follows:

A. the City owns and operates its own electric light and power distribution system, which represents a "revenue-producing facility" of the City under the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb. 2012, as amended; said system as now existing together with all additions and improvements thereto hereafter acquired or constructed is herein referred to as the "Electric System";

B. the City owns and operates its own waterworks plant and system, which represents a "revenue-producing facility" of the City under the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb. 2012, as amended; said plant and system as now existing together with all additions and improvements thereto hereafter acquired or constructed are herein referred to as the "Water System";

C. the City owns and operates its own sanitary sewer system, which represents a "revenue-producing facility" of the City under the provisions of Sections 18-1803 to 18-1805,

R.R.S. Neb. 2012, as amended; said system as now existing together with all additions and improvements thereto hereafter acquired or constructed is herein referred to as the "Sewer System";

D. the Electric System, the Water System and the Sewer System as combined (the "Combined Utilities") further represent a revenue-producing undertaking and facility of the City under the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb. 2012, as amended, for which the City is authorized to issue revenue bonds;

E. the City currently has outstanding the following issues of revenue bonds of the City (collectively, the "Outstanding Parity Bonds") for which the revenues of the Combined Utilities have been pledged and which constitute the only outstanding indebtedness for which the revenues of the Combined Utilities have been pledged:

(i) \$3,485,000 Combined Electric, Water and Sewer Revenue and Refunding Bonds, 2021 Series (the "2021 Bonds"), presently outstanding in the principal amount of \$2,975,000, which 2021 Bonds were authorized by Ordinance No. 2021-24 of the City (the "2021 Ordinance"),

(ii) \$38,591,000 Combined Electric, Water and Sewer Revenue Bond, 2021 Series, (drawable up to such amount and payable initially to the Nebraska Department of Environment and Energy ("NDEE") and issued on April 13, 2021) (the "2021 NDEE Bond"), and with principal amount outstanding of \$34,652,820.18, which bond was authorized by Ordinance No. 2020-02 as amended by Ordinance No. 2021-05 of the City (the "2021 NDEE Ordinance"),

(iii) \$5,085,000 Combined Electric, Water and Sewer Revenue and Refunding Bonds, 2020E Series (the "2020E Bonds"), presently outstanding in the principal amount of \$3,885,000, which 2020E Bonds were authorized by Ordinance No. 2020-09 of the City (the "2020E Ordinance"),

(iv) \$4,620,000 Combined Electric, Water and Sewer Revenue Refunding Bonds, 2020D Series (the "2020D Bonds"), presently outstanding in the principal amount of \$2,935,000, which 2020D Bonds were authorized by Ordinance No. 2020-05 of the City (the "2020D Ordinance"),

(v) \$5,600,000 Combined Electric, Water and Sewer Revenue Bond, 2020B Series, (drawable up to such amount and payable initially to NDEE and issued on January 15, 2020) (the "2020B NDEE Bond"), and with principal amount outstanding of \$3,637,750.09, which bond was authorized by Ordinance No. 2019-24 of the City (the "2020B NDEE Ordinance"),

(vi) \$6,300,000 Combined Electric, Water and Sewer Revenue Refunding Bonds, 2020 Series (the "2020 Bonds"), presently outstanding in the

principal amount of \$3,110,000, which 2020 Bonds were authorized by Ordinance No. 2019-16 of the City (the "2019 Ordinance"),

(vii) \$1,486,200 Combined Electric, Water and Sewer Revenue Bond, 2017 Series, (drawable up to such amount and payable initially to NDEE and issued on June 23, 2017) (the "2017 NDEE Bond"), and presently outstanding in the principal amount of \$949,481.60, which bond was authorized by Ordinance No. 2017-09 of the City (the "2017 NDEE Ordinance"),

(viii) \$1,444,535 Combined Electric, Water and Sewer Revenue Bond, (drawable up to such amount and payable initially to NDEE and issued on July 8, 2015) (the "2015 NDEE Bond") and presently outstanding in the principal amount of \$704,850.65, which bond was authorized by Ordinance No. 2012-20 of the City as amended by Ordinance No. 2014-7, Nebraska (the "2014 Ordinance"),

(ix) \$3,128,000 Combined Electric, Water and Sewer Revenue Bond, 2014 Series, (drawable up to such amount and payable initially to NDEE and issued on October 2, 2014) (the "2014 NDEE Bond"), and presently outstanding in the principal amount of \$566,525.22, which bond was authorized by Ordinance No. 2014-08 of the City (the "2014 NDEE Ordinance"),

(x) \$2,300,000 Combined Electric, Water and Sewer Revenue Bond, 2009 Series, (drawable up to such amount and payable initially to NDEE) (the "2009 NDEE Bond") and presently outstanding in the principal amount of \$637,846.38, which bond was authorized by Ordinance No. 2009-09 of the City (the "2009 Ordinance"), and

(xi) \$5,000,000 Combined Electric, Water and Sewer Revenue Bond, 2008 Series, (drawable up to such amount and payable initially to NDEE) (the "2008 NDEE Bond") presently outstanding in the principal amount of \$946,574.47, which bond was authorized by Ordinance No. 2008-8 of the City (the "2008 Ordinance").

Other than the Outstanding Parity Bonds, there are presently no other outstanding obligations of the City which constitute a lien upon the revenues and earnings of the City's Combined Utilities;

F. NDEE has approved a project of the City for its Sewer System consisting of the construction of a sanitary sewer line and lift station as well as the expansion of the waste water treatment plant, which project has been designated as Project No. \_\_\_\_\_ (the "Project") and has agreed to lend from monies in NDEE's Clean Water State Revolving Fund or from other sources in the total principal amount of up to \$22,500,000 (the "NDEE Loan") and in connection with such loan has agreed to accept one or more bonds payable from the revenues of the Combined Utilities;

G. that as authorized by the ordinances approving the issuance of the Outstanding Parity Bonds (collectively, the “Outstanding Parity Bond Ordinances”), the City may issue “Additional Bonds” (as defined in the Outstanding Parity Bond Ordinances) payable from the revenues and earnings of the Combined Utilities on a parity with the Outstanding Parity Bonds provided that the revenues of the Combined Utilities for the fiscal year next preceding the date of authorization of such Additional Bonds, after deduction of operation and maintenance expenses (not including depreciation or interest) based upon a certified public accountant’s report (subject to certain modifications as set forth in the Outstanding Parity Bond Ordinances for those times when an audit report is not yet available) is equal to or better than 1.25 times the average annual bond requirements (as defined and described in the Outstanding Parity Bond Ordinances) of the Outstanding Parity Bonds and the Additional Bonds proposed to be issued, or if the report of a certified public accountant for the fiscal year immediately preceding the year in which the Additional Bonds are proposed to be issued is not yet available, the City may use the report of the certified public accountant available for the then most recent fiscal year for which financial statements have been reported on, provided that the City Treasurer shall provide a supplemental statement stating that, based upon all unaudited monthly reports available, the statements of revenues and expenses of the City in connection with its Combined Utilities will not have substantially or materially changed in an adverse manner from such prior fiscal year for which financial statements have been reported on;

H. the average annual bond requirements for the Outstanding Parity Bonds and the bond herein authorized (hereby designated as the City’s Combined Electric, Water and Sewer Revenue Bond, 2024A Series” and herein referred to sometimes as the “2024A Bond” and sometimes as the “2024A NDEE Note”) determined in accordance with the requirements of the Outstanding Parity Bond Ordinances will not be more than \$3,205,516.59; and the revenues of the Combined Utilities after deduction of operation and maintenance expenses as adjusted in accordance with the terms of the Outstanding Parity Bond Ordinances for the fiscal year ended September 30, 2023 were not less than \$9,421,034;

I. in connection with the NDEE Loan, as evidenced by the 2024A Bond, it is necessary and advisable for the City to approve the execution of the “2024A NDEE Contract” (as defined below) and the 2024A NDEE Note in substantially the forms attached hereto;

J. all conditions, acts and things required by law to exist or to be done precedent to the issuance of the 2024A Bond as an “Additional Bond” under the terms of the Outstanding Parity Bond Ordinances and as herein authorized to evidence the City’s obligation under the NDEE Loan do exist and have been done as required by law.

Section 2. Unless the context shall clearly indicate otherwise, the following terms (in addition to any terms herein defined by parentheses) shall have the following meanings when used in this Ordinance:

(a) the term “Additional Bonds” shall mean any and all bonds hereafter issued by the City pursuant to the terms of this Ordinance which are equal in lien to the Outstanding Parity Bonds and the 2024A Bond, including any such bonds issued pursuant to Section 11 of this Ordinance.

(b) the term “revenues” shall mean all the rates, rentals, fees, charges, earnings and other monies from any source whatever derived by the City of South Sioux City through its ownership and operation of the Combined Utilities.

Section 3. To provide for the payment of the costs of the Project, there shall be and there is hereby ordered issued the 2024A Bond, in the form of and evidenced by a single promissory note (sometimes referred to in this Ordinance, according to the context, as the “2024A NDEE Note” and sometimes as the “2024A Bond”) in the principal amount of Twenty-Two Million Five Hundred Thousand Dollars (\$22,500,000), with such 2024A NDEE Note to be substantially in such form and to have such payment terms as are set forth in Exhibit A to this Ordinance, which exhibit is by such reference incorporated herein as if fully set forth. In connection with the issuance of the 2024A NDEE Note, the City shall also enter into an agreement with NDEE entitled “Loan Agreement (Governmental Borrower) between Nebraska Department of Environment and Energy and City of South Sioux City, Nebraska Project No. \_\_\_\_\_” (the “2024A NDEE Contract”) in substantially the form set forth in Exhibit B to this Ordinance, which exhibit is by such reference incorporated herein as if fully set forth. The terms and conditions of the 2024A NDEE Note and the 2024A NDEE Contract are hereby approved and the Mayor and the City Clerk are hereby authorized to execute and deliver the 2024A NDEE Note and the 2024A NDEE Contract for and on behalf of

the City in substantially the form presented but with such changes from the forms presented and attached hereto as such officers shall deem appropriate for and on behalf of the City.

Section 4. The City hereby pledges and hypothecates the entire revenue and earnings of the Combined Utilities, subject only to the payment of reasonable operating expenses of said Combined Utilities, to the payment of the 2024A Bond and the Outstanding Parity Bonds, both principal and interest, as the same fall due. The pledge and hypothecation of the revenues and earnings of the Combined Utilities provided for in this Ordinance for the 2024A Bond and the Outstanding Parity Bonds, subject to the right of the City to issue Additional Bonds as provided for in this Ordinance, is intended to and shall provide for a first and prior pledge of, lien on and security interest in the revenues and earnings of the Combined Utilities for the payment of principal of and interest on the 2024A Bond and the Outstanding Parity Bonds superior to any pledge, lien or security interest or promise made or given with respect to any other indebtedness of the City as to its Combined Utilities and is intended as a full exercise of the powers of the City provided for in Sections 18-1803 to 18-1805, R.R.S. Neb. 2012, as now or hereafter amended, with respect to the City's Combined Utilities and the revenues and earnings thereof.

Section 5. The City will maintain and collect rates and charges for all electric, water and sewer service furnished from the Combined Utilities adequate to produce revenue and earnings sufficient at all times:

- (a) to provide for the payment of interest on and principal of the 2024A Bond and the Outstanding Parity Bonds and any Additional Bonds as such interest and principal become due;
- (b) to pay all reasonable costs of operation and maintenance of the Combined Utilities, including adequate insurance as provided by this Ordinance and to pay for the necessary and reasonable repairs, replacements and extensions of said Combined Utilities;

(c) to establish and maintain the Combined Utility Bond Reserve Account and Improvement and Extension Account (including sub-accounts, if any, as established pursuant to this Ordinance and the Outstanding Parity Bond Ordinances) as hereinafter set forth; and

(d) to comply with all requirements with respect to maintaining net revenues as set forth in the Outstanding Parity Bond Ordinances and the 2024A NDEE Contract.

Section 6. The entire revenue and earnings derived from the operation of the Combined Utilities of said City shall be set aside as collected and deposited in a separate fund, previously created under Ordinance No. 76-32 and designated as the "Combined Utility Fund". The monies in the Combined Utility Fund shall be deposited in a separate bank account properly earmarked and deposit shall be made in a bank or banks designated by the Council and be secured as provided by law for deposits. The City shall maintain as long as the 2024A Bond and the Outstanding Parity Bonds are outstanding the following Accounts for the administration of said fund:

I. OPERATION AND MAINTENANCE ACCOUNT: The City shall set aside in this Account each month an amount sufficient for the operation and maintenance of its Combined Utilities and the expenses of maintenance and operation of said utilities shall be paid out of this Account.

II. COMBINED UTILITY REVENUE BOND ACCOUNT: On or before the first day of each calendar month, out of the Combined Utility Fund there shall be deposited monthly on the first day of each month into the Combined Utility Revenue Bond Account, starting with the month immediately following the month in which the 2024A NDEE Note is issued and delivered (such date, the "Initial Deposit Date"), the following amounts:

(1) during the period from the Initial Deposit Date, until and including that June 15 or December 15 (as the case may be with respect to the earliest occurring of such dates) which immediately follows the "Initiation of Operation" (as defined in the 2024A NDEE Contract; in this Ordinance hereafter referred to as the "Initiation of Operation") of the Project an amount such that if the same amount were credited on the first day of each calendar month from such date of credit until the next payment date upon which any amount falls due on the 2024A NDEE Note, whether for principal or interest, the amount accumulated by such monthly credits would equal the amount



falling due on such payment date on the 2024A NDEE Note, provided, however, that such credits shall be required only as and to the extent that such payments are not provided from other sources including amounts advanced by NDEE pursuant to the 2024A NDEE Contract and the 2024A NDEE Note;

(2) during the period from and including that June 15 or December 15 (as the case may be with respect to the earliest occurring of such dates) which immediately follows the Initiation of Operation until the 2024A NDEE Note has been paid in full an amount equal to one-sixth of the installment amount (principal and interest) due on the next installment payment date for the 2024A NDEE Note;

(3) during such periods, such amounts as are required to be credited under the terms of the Outstanding Parity Bond Ordinances for payments of principal and interest on the Outstanding Parity Bonds.

Such transfers to the Combined Utility Revenue Bond Account shall be made in such amounts and at such times that there will be sufficient sums in such Account to meet the required payments on all of said bonds as the same become due and amounts in such Account shall be applied to meet the payments on the 2024A Bond and the Outstanding Parity Bonds as the same fall due.

III. COMBINED UTILITY BOND RESERVE ACCOUNT: Pursuant to the Outstanding Parity Bond Ordinances, the City is required to maintain separate sub-accounts in the Combined Utility Bond Reserve Account for each separate issue included in the Outstanding Parity Bonds and the 2024A Bond (if any). The Council hereby determines, taking into consideration the terms of the 2024A NDEE Contract, that the amount appropriate to be maintained with respect to the 2024A Bond in a separate sub-account shall be \$0.00. The amount required to be maintained with respect to the 2024A Bond and the Outstanding Parity Bonds as to each issue, shall not exceed the maximum amount permitted to be invested without yield restriction under the Internal Revenue Code of 1986, as amended, and applicable regulations of the United States Treasury Department thereunder. Monies credited to the Combined Utility Bond Reserve Account may be withdrawn, as needed but only from the designated sub-account for each issue, to provide funds to pay, when due, the principal of and interest on the 2024A Bond and the Outstanding Parity Bonds and any Additional Bonds issued pursuant to this ordinance, if the Combined Utility Revenue Bond Account contains insufficient funds for such purpose and the City Treasurer is hereby authorized and directed to make such withdrawal if and when needed. In the event of a withdrawal from the Combined Utility Bond Reserve Account for such purposes, there shall be credited to the Combined Utility Bond Reserve Account all monies in the Combined Utility

Fund remaining after making the payments required to be made in any month to the Operation and Maintenance Account and Combined Utility Revenue Bond Account and each month thereafter all such remaining monies shall be credited to the Combined Utility Bond Reserve Account until such Account, as to each sub-account therein, has been restored to the respective balance then required. Each sub-account in the Combined Utility Reserve Account, including sub-accounts established under the terms of the Outstanding Parity Bond Ordinances, shall secure the issue for which it is established and shall be drawn upon to meet payments on such issue only, until such issue is no longer outstanding. In the event of withdrawals from any such sub-account or sub-accounts, amounts available to restore deficiencies shall be applied to the respective deficient sub-accounts in the Combined Utility Bond Reserve Account on a pro rata basis in accordance with the respective principal amounts outstanding for each such issue of bonds (including the Outstanding Parity Bonds and any Additional Bonds as may be then outstanding) for which there is a deficient sub-account.

IV. IMPROVEMENT AND EXTENSION ACCOUNT: No amount shall be required to be maintained in such account under the terms of this Ordinance and the amount required to be maintained shall be determined with reference to the applicable provisions, if any, of the Outstanding Parity Bond Ordinances and any ordinances authorizing Additional Bonds, all as then outstanding, which shall govern the balance required to be maintained in the Improvement and Extension Account. Monies in this Account may be used for the maintenance, improvement, enlargement or extension of the Combined Utilities and at any time monies are spent from this Account so as to reduce the Account to an amount less than the then required balance, then equal monthly payments in an amount sufficient to fill the Account to its required balance (if any) in sixty months will commence and continue until the Improvement and Extension Account balance as may then be required is attained.

V. SURPLUS ACCOUNT: After providing for the Operation and Maintenance Account and after making the payments hereinabove required to be made into the Combined Utility Revenue Bond Account, Combined Utility Bond Reserve Account and Improvement and Extension Account, all remaining funds shall be deposited into a Surplus Account to be used as follows:

- 1) To fill any deficiency in the foregoing Accounts.
- 2) For the purpose of calling under their option provision or for purchasing on the open market any of the Outstanding Parity Bonds, the 2024A Bond and any Additional Bonds then outstanding.
- 3) For improvements, replacements, extensions and enlargements to the Combined Utilities including payment of principal and interest on

junior lien obligations issued to pay the costs of such improvements, replacements, extensions and enlargements.

4) For any other legal municipal purpose provided that money expended for other municipal purposes does not exceed 50% of the amount credited to the Surplus Account.

Monies on deposit in the Combined Utility Fund, which have not as yet been credited to an Account therein in accordance with this section and monies credited to the Operation and Maintenance Account and the Combined Utilities Revenue Bond Account may to the extent practicable and reasonable be invested in direct general obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America, maturing in the case of money invested from the Combined Utility Fund by not later than the first business day of the month next following such investment and maturing in the case of monies invested from the Operation and Maintenance Account and the Combined Utility Revenue Bond Account at such times and in such amounts as shall be required to provide monies to make the payments to be made from said Accounts. Monies credited to the Combined Utility Bond Reserve Account shall be invested in direct obligations of or obligations the principal and interest of which are unconditionally guaranteed by the United States of America maturing or redeemable at stated fixed prices at the option of the holder by not more than eight years from the date of such investment. Monies credited to the Improvement and Extension Account and the Surplus Account shall be invested in such obligations as are permitted by law for cities of the class of which South Sioux City is one, maturing at such times not later than ten years from the date of such investment and in such amounts as shall be determined by the City in accordance with its estimation of the payments to be made from said Accounts and, if permitted by law, in Outstanding Parity Bonds, the 2024A Bond or Additional Bonds, which Outstanding Parity Bonds, 2024A Bond or Additional

Bonds so purchased shall be held for the credit of said Accounts and not cancelled, and in Revenue Bond Anticipation Notes and in paving, sewer and water warrants which are to be funded by the issuance of bonds of the City. All interest and income derived from monies to the credit of the Combined Utility Fund, the Operation and Maintenance Account and the Surplus Account shall, when realized and collected, be credited to said Fund or to the respective Account from which such investments were made. All monies and income from investments made from monies credited to the Combined Utility Bond Reserve Account, the Improvement and Extension Account and the Combined Utility Revenue Bond Account shall, when realized and collected, be credited to the respective Account from which such investments were made, unless there shall then be credited thereto the respective full amounts required by paragraphs II, III and IV of this section in which event such interest and income shall be credited to the Surplus Account. All investments held for the credit of any Fund or Account may be sold when required to make the payments to be made from such Fund or Account. Any monies credited to the Combined Utility Fund or any Account therein which are not invested shall be secured in the manner provided by law for the security of funds of cities of the class of which South Sioux City is one. It is understood that the revenues of the Combined Utilities are to be credited to the various Accounts hereinabove established in the order in which said Accounts have been listed, and if within any period the revenues are insufficient to credit the required amounts in any of said Accounts, the deficiencies shall be made up the following period or periods after payment into all Accounts enjoying a prior claim on the revenues have been made in full.

Section 7. The City of South Sioux City shall keep proper books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all

transactions relating to the Combined Utilities and the holder of the 2024A Bond or the holders of any Additional Bonds or any of the Outstanding Parity Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all records, accounts and data relating thereto and to inspect said Combined Utilities and all properties comprising the same. Within sixty days following the close of each fiscal year, the City shall cause an audit of such books and accounts to be made by an independent firm of certified public accountants, showing the receipts and disbursements for account of the Combined Utilities and such audit will be available for inspection by the holders of any of the aforesaid bonds. Each such audit, in addition to whatever matters may be thought proper by the accountant to be included therein, shall include the following:

1. A statement in detail of the income and expenditures of each component of the Combined Utilities for such fiscal year.
2. A balance sheet as of the end of such fiscal year.
3. The accountant's comment regarding the manner in which the City has carried out the requirements of this Ordinance, and the accountant's recommendation for any changes or improvements in the operation of the Combined Utilities or the components thereof.
4. A list of the insurance policies in force at the end of the fiscal year, setting out as to each policy the amount of the policy and risks covered, the name of the insurer and the expiration date of the policy.
5. The number of properties connected with the systems composing the Combined Utilities at the end of the year and the number of metered electric, water and sewer customers at the end of the year.

All expenses incurred in the making of the audits required by this section shall be regarded and paid as a maintenance and operation expense. The City of South Sioux City shall furnish a copy of each such audit to the original purchaser of the 2024A Bond and of any series of Additional Bonds, and to the holder of at least twenty-five percent (25%) of any issue of bonds outstanding,

upon request, after the close of each fiscal year, and said purchaser or any such holder shall have the right to discuss with the accountant making the audit the contents of the audit and to ask for such additional information as each may require.

Section 8. The City Treasurer and the City Clerk shall be bonded, in addition to their official bond, by an insurance company licensed to do business in Nebraska, in amounts sufficient to cover at all times all the revenues and earnings of the Combined Utilities placed in their hands. Any other person employed by the City in the collection or handling of monies derived from the operation of the Combined Utilities shall also be bonded in an amount sufficient to cover all monies which may at any time be placed in such person's hands. The amount of such bonds shall be fixed by the Council and the cost thereof shall be paid from the earnings of said Combined Utilities, and they shall secure the faithful accounting of all monies.

Section 9. The City will carry adequate insurance on the Combined Utilities in such amounts as are normally carried by private companies engaged in similar operations, including, without limiting the generality of the foregoing, fire and windstorm insurance, public liability insurance and any insurance covering such risks as shall be recommended by a consulting engineer. The cost of all such insurance shall be regarded and paid as an operation and maintenance expense.

All such insurance proceeds except from public liability insurance shall be deposited in the Improvement and Extension Account and shall be used in making good the loss or damage in respect of which they were paid either by repairing the property damaged or replacing the property destroyed, and expenditures from said monies shall be made only upon a certificate issued by a consulting engineer and filed with the City Clerk stating that such proceeds, together with any

other monies available for such purposes, are sufficient for the repair or replacement of any such properties; and when the City shall have been furnished with a certificate of a consulting engineer stating that the property damaged or destroyed has been fully paid for, the residue, if any, of such insurance monies shall be transferred from the Improvement and Extension Account to the Combined Utility Revenue Bond Account to make up any deficiency in said Account, if any such deficiency exists.

If the proceeds of any insurance shall be insufficient to repair or replace the property damaged or destroyed, the City may use and shall pay out for such purpose, to the extent of such deficiency, any money remaining in the Improvement and Extension Account and the Surplus Account. If in the opinion of a consulting engineer the proceeds of any insurance, together with any amount then available for that purpose in the Improvement and Extension Account and Surplus Account shall be insufficient to fully complete and pay for such repairs or replacements and if the City shall fail to supply such deficiency from other sources within a period of six months after receipt by the City of such insurance monies, or if in the opinion of a consulting engineer it is in the best interest of the City not to repair or replace all or any part of the damaged properties and that failure to repair or replace the damaged properties shall not affect the sufficiency of the income and revenue from the remaining properties to properly maintain and operate the same, provide funds for the Combined Utility Revenue Bond Account, Combined Utility Bond Reserve Account and Improvement and Extension Account, as herein provided for, then such insurance monies to the extent not applied to repair or replace the damaged properties shall be deposited in the Combined Utility Bond Reserve Account as described in Section 6 of this Ordinance and used for the purposes for which said Account has been created, so as to fill any deficiency in said Account, or if no



deficiency exists, then to the Improvement and Extension Account to fill such Account to its required balance and any amount which may be in excess of the amount required in the Improvement and Extension Account shall be credited to the Surplus Account.

If the holders of sixty percent (60%) or more in principal amount of the Outstanding Parity Bonds, the 2024A Bond and any Additional Bonds at the time outstanding shall at any time direct the City in writing to do so, then any insurance monies theretofore credited to the Improvement and Extension Account and then in the hands of the City may be used for extensions and betterments of said Combined Utilities or applied to the pro rata payment of the principal of and accrued interest on all said bonds then outstanding.

The proceeds of any and all policies for public liability shall be paid to and be held by the City Treasurer and used in paying the claims on account of which they were received.

Section 10. The City will maintain the Combined Utilities in good condition and operate the same in an efficient manner and at a reasonable cost. The City agrees with the holder or holders from time to time of the 2024A Bond that the City will continue to own, free from all liens and encumbrances, and will adequately maintain and efficiently operate said Combined Utilities; provided, however, the City may dispose of property which is recommended for disposal by the manager or superintendent of the utilities, or an independent Consulting Engineer and which is determined as a matter of record by the Council to have become obsolete, non-productive or otherwise unusable to the advantage of the City.

Section 11. Nothing in this Ordinance shall be construed in such a manner as to prevent the issuance by the City of South Sioux City of Additional Bonds payable from the revenues of the Combined Utilities, which Additional Bonds shall be on a parity with the lien of the

Outstanding Parity Bonds and the 2024A Bond and equally and ratably secured therewith and entitled to the security and benefits of this Ordinance; provided however, that before any such Additional Bonds are actually issued, the revenues of the Combined Utilities, for the fiscal year next preceding the date of the authorization of such Additional Bonds, after deducting therefrom all costs of operation and maintenance of said system or systems, for such fiscal year and before deduction of depreciation or interest as based on a certified public accountant's report shall have been equal to 1.25 times the average annual bond requirements of the Outstanding Parity Bonds, the 2024A Bond and any Additional Bonds then outstanding and the Additional Bonds proposed to be issued or such revenues would have met such test by applying the provisions of the second paragraph of this Section 11. If the report of a certified public accountant for the fiscal year immediately preceding the year in which the Additional Bonds are proposed to be issued is not yet available, the City may use the report of the certified public accountant available for the then most recent fiscal year for which financial statements have been reported on, provided that the City Treasurer shall provide a supplemental statement stating that, based upon all unaudited monthly reports available, the statements of revenues and expenses of the City in connection with its Combined Utilities will not have substantially or materially changed in an adverse manner from such prior fiscal year for which financial statements have been reported on. For this purpose the average annual bond requirements shall be determined by adding all of the principal and interest which will become due when computed to the absolute maturity of the Outstanding Parity Bonds, the 2024A Bond and Additional Bonds, if any, then outstanding and all of the principal and interest of the Additional Bonds to be issued, and dividing such total by the number of years remaining

that the longest bond of any issue of bonds (including the Additional Bonds to be issued) has to run to maturity.

In the event any change in the rates, rentals and charges for the use and service of the Combined Utilities has been made during the preceding fiscal year or during the interval between the end of such fiscal year and the issuance of such Additional Bonds, or in the event the City shall covenant in the ordinance or resolution authorizing the issuance of such Additional Bonds to impose, effective upon the issuance of such Additional Bonds, higher rates, rentals and charges for such use and service, compliance with the provisions of this Section 11 of this Ordinance may be evidenced by a certificate of an independent Consulting Engineer or firm of engineers or Certified Public Accountant or independent Certified Public Accountants to be filed with the City Clerk prior to the issuance of any such Additional Bonds. Such certificate shall state fully the facts upon which such certificate is based, and if it is a certificate of the Consulting Engineer or firm of Consulting Engineers shall have attached thereto the certified financial statement for the fiscal year next preceding the date of authorization of such Additional Bonds used by the Engineer or firm of Engineers in arriving at the conclusion stated in said certificate. The Consulting Engineer or independent Certified Public Accountant of the City shall, in determining the earnings for such fiscal year adjust the collections to reflect the result as if such changed rates, rentals and charges, or such higher rates, rentals and charges had been in existence for such entire preceding fiscal year period, and the amount of such net collections and adjusted earnings as aforesaid shall be conclusive evidence and the only evidence required to show compliance with the provisions and requirements of this Section 11 of this Ordinance.

Everything in this Section 11 to the contrary notwithstanding, if the Mayor and Council shall in the reasonable exercise of discretion determine that the electric power requirements of the City and its inhabitants are such that the construction or other acquisition of facilities for generation of electric power by the City, acting either by itself or in such joint undertakings as are permitted by Sections 18-412.07 through 18-412.10, Reissue Revised Statutes of Nebraska, 2012, as amended, is necessary and desirable and will not result in any impairment of the City's ability to pay principal and interest as it falls due on all of the Outstanding Parity Bonds, the 2024A Bond and any Additional Bonds outstanding at such time, the forgoing requirement that the revenues of the Combined Utilities shall have been equal to 1.25 times the average annual bond requirements of the outstanding bonds shall not be applicable and Additional Bonds on a parity with the lien of the Outstanding Parity Bonds, the 2024A Bond and any Additional Bonds then outstanding and equally and ratably secured therewith and entitled to the security and benefits of this Ordinance may be issued in an amount sufficient to pay the cost of such construction or acquisition, provided, however, that the determination of the Mayor and Council to construct or acquire such facilities shall be based upon a study showing such construction or acquisition to be economically feasible without such impairment, such study to be furnished either by a firm of consulting engineers of recognized standing or of certified public accountants of recognized standing, which study may in demonstrating such feasibility take into consideration any contracts for sale of excess capacity, proposed electric service rate increases, anticipated savings, if any, to be realized from the City generating rather than purchasing all or part of the electric power requirements of its electric light and power distribution system and such other factors as shall be deemed relevant by such accountants or engineers.

If, prior to the payment of the 2024A Bond, it shall be found desirable to refund the 2024A Bond under the provisions of any law then available, said bond may be refunded with the consent of the holder thereof (except that to the extent that the 2024A Bond is then redeemable and has been properly called for redemption, such consent shall not be necessary except to the extent provided in the 2024A NDEE Contract) and the refunding obligations so issued shall enjoy complete equality of lien with the portion of the 2024A Bond which is not refunded, if any there be, and the refunding obligations shall continue to enjoy whatever priority of lien over subsequent issues may have been enjoyed by the 2024A Bond or portion thereof refunded, provided, however, that unless all of the outstanding 2024A Bond and Outstanding Parity Bonds are being refunded, the total of the interest and principal payment obligation in any succeeding year shall not be greater, after such refunding, than it would have been in each such succeeding year without such refunding, without the consent of the holders of the unrefunded portion of said bonds. Nothing in this paragraph shall preclude the issuance of refunding bonds pursuant to the prior paragraphs of this Section 11 and, in connection with any required computation, debt service requirements on any bonds to be refunded may be excluded from and after the time when such refunded bonds shall no longer be outstanding.

Section 12. Nothing herein contained shall prevent the City from issuing bonds, revenue notes, or other forms of indebtedness, the payment of principal and interest of which is a charge upon all or a portion of the revenues of the Combined Utilities, junior or inferior to the Outstanding Parity Bonds and the 2024A Bond and to the payments to be made into the Operation and Maintenance Account, Combined Utility Revenue Bond Account, and the Combined Utility Bond Reserve Account described in Section 6 hereof, and the City shall have the right to pay interest

thereon and the principal thereof, as long as no deficiency exists in the payments into such Accounts, from funds available for improvements and enlargements to the Combined Utilities or from other funds which are available for such debt service.

Section 13. The City will not hereafter grant any franchise or right to any person, firm or corporation to own or operate an electric, water or sewer plant or system in competition with those owned by the City.

Section 14. While the 2024A Bond is outstanding, the City will render bills to all customers for electric, water and sewer services. If bills are not paid within sixty days after due, such utility service will be discontinued subject to state and federal laws governing the termination of utility service. The City agrees that it will order water service shut off on all properties served by water or sewer where there are delinquent water or sewer use charges and will order electric service shut off on all property served by electricity where there are delinquent electric charges and will make appropriate charge for use of all properties of the City connected to the electric, water and sewer systems.

Section 15. Except for amendments which are required for the correction of language to cure any ambiguity or defective or inconsistent provisions, omission or mistake or manifest error contained herein, no changes additions or alterations of any kind shall be made by the City in the provisions of this Ordinance in any manner; provided, however, that from time to time the holder of the 2024A Bond by an instrument or instruments in writing signed by such holder and filed with the City Clerk shall have power to assent to and authorize any modification of the rights and obligations of the City and of the holder of the 2024A Bond and interest thereon and the provisions of this Ordinance that shall be proposed by the City, and any action authorized to be taken with

the assent and authority given as aforesaid of the holder of said bond shall be binding upon such holder and upon the City as fully as though such action were specifically and expressly authorized by the terms of this Ordinance; provided, always, that no such modification shall be made, without the written consent of the holder of the 2024A Bond, which will (a) extend the time of payment of the principal of or interest on said bond or reduce the principal amount thereof or the rate of interest thereon; or (b) authorize the creation of any lien prior to the pledge of the revenues afforded by this Ordinance for the 2024A Bond; or (c) reduce the percentage in principal amount of said outstanding bond required to assent to or authorize any such modification. Any modification of the provisions of this Ordinance made as aforesaid shall be set forth in a supplemental ordinance to be adopted by the Mayor and Council of said City.

Section 16. So long as the 2024A Bond is outstanding, each of the obligations, duties, limitations and restraints imposed upon the City by this Ordinance shall be deemed to be a covenant between the City and the holder of said bond, and this Ordinance and every provision and covenant hereof shall constitute a contract of the City with every holder from time to time of said bond. Any holder of the 2024A Bond may by mandamus or other appropriate action or proceeding at law or in equity in any court of competent jurisdiction enforce and compel performance of this Ordinance and every provision and covenant thereof including, without limiting the generality of the foregoing, the enforcement of the performance of all duties required by the City by this Ordinance and the applicable laws of the State of Nebraska, including in such duties the making and collecting of sufficient rates, rentals, fees or charges for the use and service of the Combined Utilities, the segregation of the revenues of the Combined Utilities and the







application thereof to the respective Fund and Accounts referred to and described in Section 6 of this Ordinance.

Section 17. The City's obligations under this Ordinance and the liens, pledges, covenants and agreements of the City herein made or provided for with respect to the 2024A Bond, shall be fully discharged and satisfied and such bond shall no longer be deemed outstanding hereunder if such bond shall have been purchased and cancelled by the City or when payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof, or (b) shall have been provided for by depositing with a national or state bank having trust powers or trust company, in trust solely for such payment, (i) sufficient money to make such payment and/or (ii) direct general obligations of the United States government or obligations guaranteed by the United States government ("Deposit Securities") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will ensure the availability of sufficient money to make such payment; provided, however, that, with respect to the 2024A Bond if it is to be paid prior to maturity, the City shall have duly given notice of redemption of such bond as provided by law or made irrevocable provisions for the giving of such notice. Any such money so deposited with a bank or trust company may be invested and reinvested in Deposit Securities and all interest and income from such Deposit Securities in the hands of such bank or trust company, in excess of the amount required to pay principal of and interest on the 2024A Bond for which such monies were deposited, shall be paid over to the City as and when collected. With respect to any deposit made for purposes of satisfying the 2024A Bond under this Section 17, there shall be furnished to NDEE and the Nebraska Investment Finance Authority

PASSED AND APPROVED this 9 day of September, 2024.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

(SEAL)



("NIFA") an opinion of nationally recognized bond counsel that such deposit for payment of the 2024A Bond will not adversely affect the exclusion for interest from gross income for federal tax purposes on any bonds issued by NIFA to provide funds for deposit into the Wastewater Treatment Facilities Construction Loan Fund and the furnishing of such opinion shall be a condition required to be satisfied prior to the making of any such deposit in trust for payment and satisfaction with respect to the 2024A Bond unless the 2024A Bond is to be prepaid and redeemed within 60 days from the time of such deposit.

Section 18. If any section, paragraph, clause or provision of this Ordinance shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the other provisions of this Ordinance.

Section 19. The Mayor and Council hereby expressly declare the intent and understanding that interest on the 2024A Bond shall not be excludable from gross income under the terms of Section 103 of the Internal Revenue Code of 1986, as amended, and the City as issuer shall not file any information report with respect to the issuance of the 2024A Bond pursuant to Section 149(e) of said Code.

Section 20. All ordinances, resolutions or orders or parts thereof in conflict with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

Section 21. This Ordinance shall be published in pamphlet form and take effect as provided by law.

Exhibit “A”

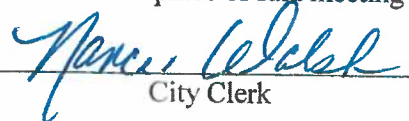
NDEE Note

Exhibit "B"

NDEE Contract

Motion for adjournment was duly made, seconded and on roll call vote was declared duly adopted by the Mayor.

I, the undersigned City Clerk for the City of South Sioux City, Nebraska, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council on \_\_\_\_\_, 2024; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the City Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to said meeting; that a current copy of the Nebraska Open Meetings Act was publicly announced, available and accessible to members of the public, posted during such meeting in the room in which such meeting was held; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that said minutes from which the foregoing proceedings have been extracted were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

  
\_\_\_\_\_  
City Clerk



**NOTICE OF PUBLICATION OF ORDINANCE IN PAMPHLET FORM**

On \_\_\_\_\_, 2024, the Mayor and Council of the City of South Sioux City, Nebraska, passed and approved Ordinance No. \_\_\_\_\_, entitled:

AN ORDINANCE AUTHORIZING THE ISSUANCE OF A COMBINED ELECTRIC, WATER AND SEWER REVENUE BOND, 2024A SERIES, OF THE CITY OF SOUTH SIOUX CITY, NEBRASKA, IN THE PRINCIPAL AMOUNT OF TWENTY-TWO MILLION FIVE HUNDRED THOUSAND DOLLARS (\$22,500,000), IN THE FORM OF A PROMISSORY NOTE ISSUED TO EVIDENCE INDEBTEDNESS TO THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY; APPROVING THE FORM OF SAID BOND (ISSUED AS A SINGLE PROMISSORY NOTE) AND RELATED LOAN CONTRACT; PLEDGING AND HYPOTHECATING THE REVENUES AND EARNINGS OF THE ELECTRIC LIGHT AND POWER DISTRIBUTION SYSTEM, THE WATERWORKS PLANT AND WATER SYSTEM AND SANITARY SEWER SYSTEM OWNED OR TO BE OWNED BY THE CITY FOR THE PAYMENT OF SAID BOND; PROVIDING FOR THE ISSUANCE AND SALE OF SAID BOND; AUTHORIZING THE DELIVERY OF SAID BOND TO THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY; DETERMINING THAT INTEREST ON SAID BOND SHALL NOT BE EXCLUDABLE FROM GROSS INCOME FOR PURPOSES OF FEDERAL INCOME TAXATION; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF SAID BOND AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.

Said ordinance was published in pamphlet form and copies thereof are available at the office of the City Clerk, in South Sioux City, Nebraska.

  
\_\_\_\_\_  
City Clerk

2954869.7