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LOAN AGREEMENT  
(Governmental Borrower)

Between the

**NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY**

And

**CITY OF CRETE, NEBRASKA**

**NDEE PROJECT NO. D311654**

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

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**DRAFT COPY FOR REVIEW.**

**PLEASE SEE EMAIL FOR MORE INFORMATION.**

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

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

LOAN AGREEMENT  
BETWEEN THE  
NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY  
AND  
THE CITY OF CRETE, NEBRASKA  
PROJECT NO. D311654

This LOAN AGREEMENT with SRF Number D311654 (hereinafter "Loan Agreement") is entered into by and between the State of Nebraska, acting by and through the Nebraska Department of Environment and Energy (hereinafter "NDEE") and the City of Crete, Nebraska (hereinafter "Borrower").

WITNESSETH THAT

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

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

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

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

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

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

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

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

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

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

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

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

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

## **ARTICLE I**

### **DEFINITIONS**

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

- (a) "Act" means the Drinking Water State Revolving Fund Act, Neb. Rev. Stat. §§71-5314 to 71-5327, as amended.
- (b) "Additional Revenue Obligation" means any obligation for the payment of money undertaken by the Borrower which is payable from or secured by a pledge of, or lien upon, the 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 Crete, Nebraska that is a party to and is described in the first paragraph of this Loan Agreement, and its successors and assignees.
- (e) "Cut-off Date" means the date established by the NDEE, prior to which, the Borrower will make the final disbursement request for eligible Project Costs.
- (f) "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.
- (g) "Drinking Water State Revolving Fund" or "DWSRF" means the Nebraska Drinking Water State Revolving Fund Act established pursuant to the Act and Regulations.
- (h) "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.
- (i) "Due Date" means the dates specified for payment of principal and interest on the Loan as specified in Section 2.06.
- (j) "Event of Default" means any occurrence or event specified in Article V of this Loan Agreement.

- (k) "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.
- (l) "Federal Act" means the Safe Drinking Water Act, et seq. as amended.
- (m) "Fund" means the Drinking Water Facilities Loan Fund established pursuant to the Act.
- (n) "GAAP" means generally accepted accounting principles as applicable to the Public Water System.
- (o) "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.
- (p) "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.
- (q) "Intended Use Plan" means a document prepared annually by the NDEE which identifies the intended use of all State Revolving Fund program funds.
- (r) "Late Payment" means any payment that is not received within fifteen days of the due date as established by this Loan Agreement.
- (s) "Loan" means the loan made by the NDEE to the Borrower to finance or refinance all or a portion of the Project Costs pursuant to this Loan Agreement.
- (t) "Loan Agreement" means this Loan Agreement, including the Attachments hereto, as it may be properly supplemented, modified or amended.
- (u) "Loan Amount" means the principal amount specified in Section 2.01 of this Loan Agreement and as amended which the NDEE has agreed to disburse to the Borrower subject to the terms, provisions, and conditions of this Loan Agreement and the availability of State and Federal Funds.
- (v) "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.
- (w) "Loan Repayments" means the payments of the Loan required to be made by the Borrower pursuant to Section 2.06 of this Loan Agreement.
- (x) "Loan Terms" means the terms as established by this Loan Agreement.
- (y) "NDEE" means the Nebraska Department of Environment and Energy established pursuant to Neb. Rev. Stat. §81 1501 et seq., as amended.
- (z) "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.
- (aa) "Note" means a promissory note of the Borrower with respect to the Loan in the form of Attachment F to this Loan Agreement.

- (bb) "Project" means an eligible item for funding under the Act and is as described in Exhibit 1 of this Loan Agreement.
- (cc) "Project Costs" means eligible costs or expenses necessary or incidental to the Project, which are directly attributable thereto and which in the determination of the NDEE are eligible under the Federal Act, and the Act, and Regulations. Estimated Project Costs are described in Attachment B.
- (dd) "Public Water System" means a Public Water System, as defined in Neb. Rev. Stat. §71 5301(10a).
- (ee) "Regulations" means the Nebraska Administrative Code, Title 131, Rules and Regulations for the Wastewater Treatment Facilities and Drinking Water Construction Assistance Programs, and any amendments thereto promulgated by the NDEE pursuant to the Act.
- (ff) "Retainage" means construction costs held back by the Borrower from the payments due to the contractor to assure satisfactory completion of the construction agreement.
- (gg) "Revenue Obligation(s)" means, without duplication, (i) the Loan; (ii) any Existing Revenue Obligation; and (iii) any Additional Revenue Obligation.
- (hh) "Sanitary Sewer Collection System" means the structures, equipment, and processes required to collect and transport sanitary sewer wastewater to the wastewater treatment facility.
- (ii) "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.
- (jj) "State" means the State of Nebraska acting, unless otherwise specifically indicated, by and through the NDEE and its successors and assignees.
- (kk) "System Revenues" means all revenues derived by the Borrower from the User Charge System.
- (ll) "Trustee" means the trustee under any trust indenture with respect to revenue bonds the proceeds of which are deposited in the Fund.
- (mm) "User Charge System" means the methodology used to assess user charge fee(s) for the users of a utility or utilities within the Borrower's jurisdiction. This includes the fees and charges for the use and services furnished by or through the Public Water System, or if applicable, a 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 Public Water System, or, if applicable, 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.
- (nn) "Wastewater Treatment Facility" or "Wastewater Treatment Works" means the structures, equipment, and processes required to treat domestic or industrial wastes and to discharge or dispose of the effluent and sludges.

## ARTICLE II

### LOAN CONDITIONS AND TERMS

**Section 2.01. Amount of the Loan.** Subject to all of the terms, provisions, and conditions of this Loan Agreement, and subject to the availability of state and federal funds, the NDEE will loan an amount not to exceed three million seven hundred thousand dollars (\$3,700,000) to the Borrower to pay a portion of the Project Costs described in Attachment B hereto.

(a) Loan Forgiveness.

- (1) The total award of all Loan Forgiveness cannot exceed seventy-five percent of the total amount of eligible Project Costs.
- (2) Loan Forgiveness. This Loan Agreement includes DWSRF Loan Forgiveness of up to 35% of the eligible Project Costs, up to a ceiling of one million two hundred ninety-five thousand dollars (\$1,295,000).
- (3) All Loan Forgiveness shall be effective only upon the completion of the Project in accordance with this Loan Agreement, including compliance with the requirements of the DWSRF, as determined by the NDEE and Initiation of Operation. The amount of such Loan Forgiveness shall be stated on the final Attachment A repayment schedule prepared by the NDEE following disbursement of the full Loan Amount and Initiation of Operation.

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

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

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

**Section 2.03. Interest Rate.** The interest rate on this Loan is determined by the NDEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. The interest rate on this Loan is 0.3% per annum (calculated on the basis of a year equaling 360 days made up of 12 months of 30 days each) to be paid pursuant to Section 2.06 of this Loan Agreement.

**Section 2.04. Administrative Fee.** The administrative rate on this Loan is determined by the NDEE pursuant to Regulations and the Intended Use Plan and is applied to outstanding principal. The Borrower shall pay to the NDEE, or at the direction of the NDEE, to the NIFA or the Trustee, an annual administrative fee of 0.3% per annum (calculated on the basis of a year equaling 360 days made up of 12 months of 30 days each) to be paid pursuant to Section 2.06 of this Loan Agreement.

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

- (a) Upon receipt of a disbursement request for work completed accompanied by any certification from the Borrower required by the NDEE, the NDEE shall make progress disbursements as established by Section 2.01 of this Loan Agreement that correspond to such request of the Loan Amount to be used by the Borrower for Project Costs. The Borrower may obtain a copy of the disbursement record upon request to the NDEE. Each disbursement shall be Automated Clearing House (ACH) by the State of Nebraska and shall be equal to that portion of the unobligated principal amount incurred to the date of the request for disbursement from the Borrower.
- (b) Minimum Disbursement Percentage. The minimum amount of a disbursement request that is not a final request must be at least 5% of the total loan amount of this Loan Agreement or \$150,000, whichever is the lesser, or the NDEE may choose not to process the request.
- (c) Submitted requests for disbursement must be supported by the following: (i) proper invoices for Project Costs; (ii) a certificate of the Authorized Representative to the effect that all representations made in this Loan Agreement remain true as of the date of the request and that no adverse developments affecting the financial condition of the Borrower or its ability to complete the Project or to repay the Loan have occurred since the date of this Loan Agreement; and (iii) other documentation acceptable to and approved by the NDEE.
- (d) The Borrower may request disbursement of the Loan Amount for eligible Project Costs, when such Project Costs have been incurred and are due and payable to project contractors. However, actual payment of such Project Costs by the Borrower is not required as a condition of a disbursement request. Any Retainage withheld by the Borrower corresponding to the progress payment made to any contractor will be withheld by the NDEE until such Retainage is either reduced or released to the contractor by the Borrower.
- (e) The Borrower shall submit a draft of the operation and maintenance manual for the Project to the designated Engineering Section at NDEE before disbursements exceed 75% of the Project Costs. The Borrower shall submit a final operation and maintenance manual to the designated Engineering Section at NDEE and receive approval before disbursements exceed 95% of the Project Costs or final disbursement, whichever comes first.
- (f) If a request for disbursement is not received by the NDEE within eighteen (18) months from either the effective date of this Loan Agreement or the last disbursement request, the NDEE may finalize, close, or terminate this agreement pursuant to Section 6.12 of this Loan Agreement.

#### **Section 2.06. Loan Payments.**

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

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

(b) Optional Prepayment of the Loan.

- (1) If the Borrower is receiving Loan Forgiveness, the Borrower may not prepay the Loan in whole or in part within ten (10) years of the date of this Loan Agreement. After the ten years, the Borrower may prepay the Loan together with any accrued interest in whole or in part without penalty upon giving no less than 60 days written notice to the NDEE of its intent to prepay.
  - (2) If the Borrower is not receiving Loan Forgiveness, the Borrower may prepay the Loan together with any accrued interest in whole or in part at any time without penalty upon giving no less than 60 days written notice to the NDEE of its intent to prepay.
  - (3) Once the Borrower is able to prepay the loan, the Borrower may make a partial prepayment of the Loan Amount only if the prepayment amount is greater than the lesser of 10% of the outstanding amount of the Loan, or fifty thousand dollars (\$50,000). The NDEE shall prepare a new Loan Repayment Schedule to revise Attachment A following receipt of any partial prepayment of the Loan and such revised Attachment A thereafter shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace Attachment A.
- (c) Mandatory Prepayment of Loan. If the Borrower receives a grant from any source for any portion of the Project Costs for which a portion of the Loan Amount has been disbursed and is outstanding under this Loan Agreement, the Borrower must notify the NDEE immediately and such portion of the Loan Amount shall become immediately due and payable.
- (d) Delinquent Payment Penalty and Penalty Interest. Payments may be considered delinquent by the NDEE if not received within 15 days of the due date and for any such delinquent payment, the Borrower agrees to pay a 5% administrative penalty of said delinquent payment. In addition, the Borrower agrees to pay penalty interest on any such delinquent payment at the rate of 1% per month of the amount of such delinquent payment from and after the due date until it is paid. Failure to pay any payment or other charges due within sixty days of the date due will result in the Borrower's account to be considered a delinquent account, subject to State of Nebraska action pursuant to the provisions of Article V of this Agreement.

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

- (a) Construction Start – July 2024
- (b) Substantial completion of construction – July 2025
- (c) Initiation of Operation – October 2025

**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 Drinking Water Use Ordinances and User Charge Systems.**

- (a) The Borrower agrees to obtain approval from the NDEE of its User Charge System, and to adopt and implement any necessary changes before the Project is placed in operation.
- (b) The Borrower agrees that it shall not modify, amend, make additions to, or deletions from its Public Water System Ordinance or User Charge System without the consent of the NDEE during the term of the Loan Agreement; with the exceptions of the following changes:
  - (1) Any increase in rates and charges necessary or deemed necessary by the governing body of the Borrower in order to comply with the provisions of this Loan Agreement, the Public Water System 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 for 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 NDEE concurrence and authorization of the construction agreement.
- (c) Initiation of Operation. The Engineering Section at the NDEE shall provide written notification to the NDEE of the date of Initiation of Operation of the Project. On failure of the Engineering Section to set an acceptable Initiation of Operation date the NDEE will look at the construction record or placement into service date and set the Initiation of Operation date.
- (d) Construction Completion. The Borrower shall provide written notification to the NDEE of the construction completion date of the Project.
- (e) Capacity Development. The Borrower agrees to maintain a system of records for annual review and reporting of technical, managerial, and financial capacity of the Public Water System to demonstrate

continued compliance with the requirements of the Nebraska Safe Drinking Water Act as provided under Nebraska Administrative Code, Title 179 – Public Water Systems, and the requirements of an operating permit, as issued by the NDEE. The Borrower agrees to make any necessary system changes to achieve an acceptable Public Water System Capacity Survey assessment; acceptable, as determined by the NDEE prior to final disbursement of loan proceeds, and to maintain that acceptable assessment level status during the period of repayment.

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

"The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee. If the Contractor is an individual or sole proprietorship, the

following applies: 1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us); 2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program; and, 3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108."

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

(1) Obtaining a Wage Determination.

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

1. Monitoring for Current Wage Determinations During Solicitation Period. While the solicitation remains open, the Borrower shall monitor <https://sam.gov> weekly to ensure that the wage determinations contained in the solicitation remain current. The Borrower shall amend the solicitation if the Department of Labor issues a modification to the wage determinations more than ten (10) days prior to the closing date for the solicitation.
2. Monitoring for Current Wage Determinations After Closing Date. Unless extended in writing by the NDEE, if the Borrower does not award the contract within ninety (90) days of the closing date for the solicitation, the Borrower shall monitor <https://sam.gov> on a weekly basis for any modifications or supersedes the Department of Labor makes on the wage determinations contained in the solicitation and shall amend the solicitation.

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

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

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

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

watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Borrower shall insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the NDEE, EPA and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(5) Compliance Verification.

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

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

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

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

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

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

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

The Borrower agrees to comply with all record keeping and reporting requirements under all applicable legal authorities, including any reports required by the NDEE, the EPA, or any party designated by the NDEE or EPA, such as performance indicators of program deliverables, information on costs and project progress. The Borrower understands that: i) each contract and subcontract related to the Project is subject to audit by appropriate federal and state entities; and ii) failure to comply with the applicable legal requirements and this Loan Agreement may result in a default hereunder subject to the conditions pursuant to Article V of this Loan Agreement and other remedial actions.

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

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

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

- (v) Prohibition on Certain Telecommunication and Video Surveillance Services or Equipment. The Borrower agrees to comply with the regulations of 2 CFR 200.216, *Prohibition on certain telecommunication and video surveillance services or equipment*, and section 889 of Public Law 115-232. The Borrower shall prohibit procuring (enter into, extend, or renew contracts) or obtaining equipment, systems, or services that use “covered telecommunications equipment or services” identified in the regulations as specified by this section as a substantial or essential component of any system, or as critical technology as part of any system for the Project. This prohibition extends to Borrowers and their subrecipients (i.e. Consulting Engineers, contractors, etc.) that “uses any equipment, system, or service that uses covered telecommunications equipment or services” as a substantial or essential component of any system, or as critical technology as part of any system. Certain equipment, systems, or services, including equipment, systems, or services produced or provided by entities subject to the prohibition are recorded in the System for Award Management exclusion list (<https://sam.gov/content/exclusions>).

### **ARTICLE III**

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

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

- (a) Organization and Authority.

- (1) The Borrower is a village, town, city, district, association, or other public body created by or pursuant to the constitution and statutes of the State of Nebraska.
- (2) The Borrower has full legal right and authority and has all necessary licenses and permits required as of the date hereof (or is in the process of obtaining all necessary licenses and permits that will be required, but are not required to be in place as of the date hereof) to own, operate and

maintain its Public Water System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by this Loan Agreement.

- (3) The proceedings of the Borrower's governing body conducted to approve this Loan Agreement and authorizing its execution, issuance, and delivery on behalf of the Borrower, and authorizing the Borrower to undertake and complete the Project, have been duly and lawfully convened and conducted and the resolution of the Borrower's governing body approving such matters has been duly and lawfully adopted.
  - (4) This Loan Agreement has been duly authorized, executed, and delivered on behalf of the Borrower, and constitutes the legal, valid, and binding obligation of the Borrower enforceable in accordance with its terms.
- (b) Full Disclosure. To the best knowledge of the Borrower, there is no fact that the Borrower has not disclosed to the NDEE in writing on the Borrower's application for the Loan or otherwise anything that materially adversely affects or that will materially adversely affect the properties, activities of its Public Water System, or the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreement under this Loan Agreement.
  - (c) Non-Litigation. There is no controversy, suit or other proceeding of any kind pending, or to the best knowledge of the Borrower, threatened questioning, disputing or affecting in any way the: (i) legal organization of the Borrower or its boundaries; (ii) the right or title of any of its officers to their respective offices; (iii) the legality of any official act taken in connection with obtaining the Loan; (iv) the constitutionality or validity of the indebtedness represented by the Loan Agreement; (v) any of the proceedings had in relation to the authorization or execution or the pledging of the revenues stated in Section 2.09 and Section 3.02 of this Loan Agreement; or (vi) the ability of the Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.
  - (d) Compliance with Existing Laws and Agreements. The authorization, execution and delivery of this Loan Agreement by the Borrower, and the performance by the Borrower of its duties, covenants, obligations, and agreements thereunder will not result in any breach of any existing law or agreement to which the Borrower is a party.
  - (e) No Defaults. No event has occurred and no condition exists that would constitute an Event of Default. The Borrower is not in violation of any agreement which would materially adversely affect the ability of the Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations, and agreements under this Loan Agreement.
  - (f) Governmental Consent. The Borrower has obtained all permits and approvals required to date under this Loan Agreement (or is in the process of obtaining all permits and approvals that will be required, but are not required to be in place as of the date hereof) for the undertaking or completion of the Project and the financing or refinancing thereof. The Borrower has complied with, or expects to comply with, all applicable provisions of law requiring any notification, with any governmental body or officer in connection with this Loan Agreement or with the undertaking or completion of the Project and the financing or refinancing thereof.
  - (g) Compliance with the Law. The Borrower:
    - (1) Is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, including, without limitation, any public hearing or public notice requirements or environmental review requirements contained in the Regulations, with which the failure to comply would materially adversely affect the ability of the Borrower to conduct its activities, enter into this Loan Agreement or undertake or complete the Project; and

- (2) Has obtained, or expects to obtain, all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property which, if not obtained, would materially adversely affect the ability of the Borrower to complete the Project.
- (h) Use of Loan Proceeds. The Borrower will apply the proceeds of the Loan as described in Article II of this Loan Agreement:
- (1) To finance or refinance a portion of the Project Costs; and
- (2) Where applicable, to reimburse the Borrower for a portion of the Project Costs, which portion was paid or incurred in anticipation of reimbursement by the NDEE and is eligible for such reimbursement pursuant to the Regulations. All of such costs constitute Project Costs for which the NDEE is authorized to make loans to the Borrower pursuant to the Act and the Regulations.
- (i) Project Costs. The Borrower certifies that the Project Costs, as listed in Attachment B, are reasonable and accurate estimations and, upon direction of the NDEE, will supply the same with a certificate from its engineer stating that such costs are reasonable and accurate estimations, taking into account investment income, if any, to be realized during the course of construction of the Project and other money that would, absent the Loan, have been used to pay the Project Costs.

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

- (a) Dedicated Source of Revenue for Repayment of the Loan. The Borrower hereby pledges to the NDEE, and grants a lien to the NDEE on, the Drinking Water User Charge System as the dedicated source of revenue for the repayment of the Loan. 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 Public Water System, including all improvements and additions hereafter constructed or acquired by the Borrower, as will provide revenues sufficient to (i) pay the cost of the operation and maintenance, and replacement of the Public Water System, (ii) pay at least 110% of the principal of and interest on the Loan as and when the same become due, and (iii) pay all other amounts due at any time under this Loan Agreement. The lien of the NDEE on the revenues of the Borrower's Public Water System shall be on a parity with the lien on such revenue of the Borrower's outstanding Public Water System revenue bonds, if such bonds exist, and any additional revenue bonds hereafter issued on parity with such outstanding 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 the other for principal and interest payments on the Loan. The funds in such accounts or ledgers shall be restricted for their intended use, and the Loan obligation shall be reported on the financial statements of the Borrower. The Borrower agrees to develop a User Charge System based on actual or estimated use of public water supply 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 user's demand or potential demand for service and to conduct at least a biennial review of user charge rates to review the adequacy of the user charge rates. The Borrower agrees the initial financial analysis performed by the NDEE in Attachment C is a reasonable estimate of the Project Costs, of the financial condition of the Borrower in relation to this Project, and of the user charges necessary at the time of initiation of operation of the Project. The NDEE may review this information annually to ensure the Borrower's compliance with the Loan conditions and update Attachment C to reflect any changes.
- (a) Performance Under Loan Agreement. The Borrower agrees:

- (1) They are in compliance with the following federal regulations and will be subject to:

- i. Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq., as amended;
    - ii. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, et seq., as amended; and
    - iii. Age Discrimination Act of 1975, 42 U.S.C. 6102, et seq., as amended.
  - (2) To comply with all applicable State and federal laws, rules, and regulations in the performance of this Loan Agreement (including, but not limited to the federal crosscutting items set forth on Attachment D of this Loan Agreement, and other NDEE Regulations); and
  - (3) To cooperate with the NDEE in the observance and performance of the respective duties, covenants, obligations, and agreements of the Borrower and the NDEE under this Loan Agreement.
- (b) Completion of Project and Provision of Moneys Therefore. The Borrower agrees:
  - (1) To exercise its best efforts in accordance with prudent public water supply utility practice to complete the Project and to so accomplish such completion on or before the estimated Project completion date set forth in Article II hereto; and
  - (2) To provide from its own financial resources all moneys, in excess of the total amount of proceeds it receives pursuant to this Loan Agreement, required to complete the Project.
- (c) Delivery of Documents. Concurrently with the delivery of this Loan Agreement (as previously authorized and executed) at the loan closing, the Borrower will cause to be delivered to the NDEE each of the following items:
  - (1) Counterparts of this Loan Agreement (as previously executed by parties hereto);
  - (2) Copies of the ordinances and/or resolutions of the governing body of the Borrower authorizing the execution and delivery of this Loan Agreement certified by an Authorized Representative;
  - (3) An Opinion of the Borrower's Counsel substantially in the form of Attachment E hereto;
  - (4) An executed Note (or other evidence of indebtedness) evidencing the Borrower's obligations under this Loan Agreement in the form of Attachment F;
  - (5) An executed certificate of the Borrower in the form of Attachment G hereto; and
  - (6) Such other certificates, documents, opinions, and information as the NDEE may require.
- (d) Operation and Maintenance of Public Water System. The Borrower agrees that it shall operate in accordance with Nebraska Administrative Code, Title 179 – Public Water Systems, Chapter 22, and ensure the following:
  - (1) At all times operate the properties of its Public Water System in an efficient manner; and
  - (2) Maintain its Public Water System, making all necessary and proper repairs, renewals, replacements, additions, betterments, and improvements necessary to maintain its system in good repair, working order and operating condition.
- (e) Disposition of Public Water System. The Borrower covenants 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:

- (1) Supervening circumstances not anticipated by the Borrower at the time of the Loan;
- (2) Adverse circumstances beyond the control of the Borrower; or;
- (3) Obsolescence of such insubstantial parts or portions of the 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 Public Water System except on 90 days' prior written notice to the NDEE and, in any event, shall not sell, lease, abandon or otherwise dispose of the same unless the Borrower shall in accordance with Section 4.02 hereof assign this Loan Agreement and its rights and interests hereunder to the purchaser or lessee of the Public Water System and such purchaser or lessee shall assume all duties, covenants, obligations and agreements of the Borrower under this Loan Agreement. In no event shall the Borrower sell, lease, abandon, or otherwise dispose of the Public Water System to any person or entity other than a municipal corporation or other political subdivision of the State of Nebraska, or any combination thereof, that has legal authority to own or operate the Public Water System.

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

- (f) 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 Public Water System's Records (the "System Records"), which shall be separate and distinct from its other records and accounts (the "General Account"). The System Records and General Accounts shall be made available for inspection upon request by the NDEE at any reasonable time. The Borrower shall, upon written request by the NDEE during the term of the Loan, engage an independent auditor to conduct an audit of the project's financial records in accordance with generally accepted government auditing standards. The Borrower shall provide the NDEE a copy of the audit report, provided such audit shall not be due to the NDEE sooner than 210 days following the close of the fiscal year, or years, identified in the request for audit. In the event that during the period in which the Project financed by this Loan Agreement is under construction, and the Borrower expends, for any purpose, total federal funds in excess of seven hundred fifty thousand dollars (\$750,000) during the Borrower's fiscal year, then the Borrower shall, irrespective of any request from the NDEE, provide the NDEE a copy of the Single Audit made on the Borrower's General Accounts performed by an independent auditor required in such cases by 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In the sole discretion of the NDEE, any requirement herein to perform and/or provide an audit at the request of the NDEE may be waived by the NDEE on the basis of the Borrower's receipt of an audit waiver received from some other government agency and accurately acknowledging the Borrower's obligation to the NDEE under this Loan or for any other reason acceptable to the NDEE.
- (g) Inspections; Information. The Borrower shall permit the EPA, the NDEE, and any party designated by the NDEE to examine, visit, and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books, and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments, and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the EPA and the NDEE may reasonably require in connection therewith.
- (h) Financial Information. The Borrower specifically agrees to provide to the NDEE a reasonable number of copies of such financial information and operating data of the Borrower and the Public Water System and

the prompt notification of the occurrence of certain material events, to the extent necessary for the NDEE to comply with its continuing disclosure obligations set forth in the SEC Rule. Such financial information shall be prepared in accordance with GAAP. Such financial information and operating data, if requested, shall be supplied within 210 days after the end of its fiscal year. If audited financial information will be prepared, but is not available within 210 days of the end of the appropriate Borrower's fiscal year, unaudited financial information shall be provided to the NDEE pending receipt of audited financial information. For purposes of this paragraph, "material event" shall mean:

- (1) Principal and interest payment delinquencies on any Indebtedness;
  - (2) Non payment related defaults in agreements authorizing any Indebtedness;
  - (3) Rating changes on any Indebtedness;
  - (4) Adverse tax opinions or events affecting the tax exempt status of any Indebtedness; or
  - (5) Unscheduled draws on debt service reserves or credit enhancements on any Indebtedness reflecting financial difficulties.
- (i) Insurance. The Borrower will carry and maintain such reasonable amount of all risk insurance on all properties and all operations of the Public Water System as would be carried by similar sized municipal operators of Public Water System, insofar as the properties are of an insurable nature. The Borrower also will carry general liability insurance in amounts not less than the maximum liability of a governmental entity for claims arising out of a single occurrence, as provided by the Nebraska Political Subdivisions Tort Claims Act (Neb. Rev. Stat. §§13-901 to 13-928), or other similar future law.
- (j) 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.
- (k) Notice of Material Adverse Change. The Borrower shall promptly notify the NDEE of any material adverse change in the activities, prospects, or condition (financial or otherwise) of the Borrower's Public Water System, in accordance with the provisions of Sections 3.02(g) and 3.02(i) of this Loan Agreement, or in the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.
- (l) 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 NDEE**. The Borrower hereby approves and consents to any assignment or transfer of this Loan Agreement that the NDEE deems necessary in connection with the operation and administration of the Fund. The Borrower hereby specifically approves the assignment and pledging of the interest portion of the Loan Repayments to NIFA.

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

- (a) The NDEE shall have approved said assignment in writing;

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

## **ARTICLE V**

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

**Section 5.01. Event of Default.** Event of Default means: (i) any violation or noncompliance by the Borrower of any of the 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 NDEE; 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 NDEE prompt telephonic notice of the Event of Default. Such telephonic notice shall be immediately followed by written notice of such Event of Default given in the manner as established by Section 6.03 of this Loan Agreement.
- (b) If an Event of Default shall occur and is discovered by the NDEE, the NDEE shall give the Borrower and the NIFA prompt telephonic notice of the occurrence of such Event of Default. Such telephonic notice shall be immediately followed by written notice from the NDEE to the Borrower of such Event of Default given in the manner as established by Section 6.03 of this Loan Agreement.

**Section 5.03. Remedies on Default.**

- (a) Whenever an Event of Default shall have occurred and be continuing, the NDEE or the Borrower shall have the right to take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and to become due or to enforce the performance and observance of any obligation or

agreement of the Borrower (including, without limitation, withholding remaining Loan disbursements, cancellation of this Loan Agreement and acceleration of the remaining scheduled principal payments set forth on Attachment A, or such other remedies provided to the NDEE in the Act and the Regulations).

- (b) If the Borrower fails to make any payment of principal and interest, administrative fee, late fee, or penalty interest imposed pursuant to this Loan Agreement within 60 days of the due dates specified in Section 2.06 of this Agreement, the payment shall be deducted from the amount of aid to municipalities to which the Borrower is entitled under Neb. Rev. Stat. §72-1503. Such amount shall be paid directly to the Fund.

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

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

- (a) First, to pay administrative fees on the Loan as the same becomes due and payable;
- (b) Second, to pay interest on the Loan as the same becomes due and payable;
- (c) Third, to pay principal due and payable on the Loan;
- (d) Fourth, to pay expenses owed by the Borrower pursuant to Section 5.04 hereof; and
- (e) Fifth, to pay any other amounts due and payable hereunder as such amounts become due and payable. To the extent that the NDEE's right to receive Loan Repayments is on a parity of lien basis with the lien of Existing Revenue Obligations or Additional Revenue Obligations on the 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 NDEE may result in a cancellation of this Loan Agreement, and a demand that any outstanding balance of principal, interest, and administrative fees and any other amounts due under this Loan Agreement be paid immediately.

## ARTICLE VI

### MISCELLANEOUS

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

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

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

(a) BORROWER

City of Crete  
243 East 13<sup>th</sup> Street  
P.O. Box 86  
Crete, NE 68333-0086  
Phone: (402) 826-4313

(b) NDEE

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

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

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

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

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

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

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

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

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

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

**Section 6.12. Finalizing, Closing, and Termination of the Loan Agreement.** The NDEE reserves the right to finalize and close, or terminate this Loan Agreement for cause at any point during the term of the loan. Before any action is taken, the NDEE shall give no less than 30 days written notice of the NDEE's intent to the Borrower. Following the final disbursement of Loan proceeds to the Borrower, the NDEE shall revise Attachment A. Such revised Attachment A shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace Attachment A.

**Section 6.13. Electronic Signature.** The NDEE and the Borrower hereby approve the usage of electronic signatures pursuant to Neb. Rev. Stat. §86-611 and Nebraska Administrative Code, Title 437, Digital Signatures Act.

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

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

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

CITY OF CRETE, NEBRASKA

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

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

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

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

(signature)  
Title \_\_\_\_\_  
Mayor

(signature)  
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**

The project to be funded by this DWSRF financing is the construction of a new well, transmission main, and water main replacements in several locations. 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 NDEE's procedures.

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

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

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

**ATTACHMENT A**

**PROJECTED AMORTIZATION SCHEDULE**

**TOTAL PRINCIPAL: \$ 2,405,000**      **INTEREST RATE (%): 0.30**  
**LOAN FORGIVENESS: \$ 1,295,000**      **ADMIN FEE (%): 0.30**  
**TOTAL SRF ASSISTANCE: \$ 3,700,000**      **TERM (YEARS): 30**

Principal Payment	Principal	Principal Payment	Interest	Admin Fee	Total Payment	Remaining Principal
6/15/2026	\$ 2,405,000.00	\$ 38,336.67	\$ 3,607.50	\$ 3,607.50	\$ 45,551.67	\$ 2,366,663.33
12/15/2026	\$ 2,366,663.33	\$ 38,394.18	\$ 3,549.99	\$ 3,549.99	\$ 45,494.17	\$ 2,328,269.15
6/15/2027	\$ 2,328,269.15	\$ 38,451.77	\$ 3,492.40	\$ 3,492.40	\$ 45,436.57	\$ 2,289,817.39
12/15/2027	\$ 2,289,817.39	\$ 38,509.44	\$ 3,434.73	\$ 3,434.73	\$ 45,378.90	\$ 2,251,307.94
6/15/2028	\$ 2,251,307.94	\$ 38,567.21	\$ 3,376.96	\$ 3,376.96	\$ 45,321.13	\$ 2,212,740.73
12/15/2028	\$ 2,212,740.73	\$ 38,625.06	\$ 3,319.11	\$ 3,319.11	\$ 45,263.28	\$ 2,174,115.67
6/15/2029	\$ 2,174,115.67	\$ 38,683.00	\$ 3,261.17	\$ 3,261.17	\$ 45,205.34	\$ 2,135,432.68
12/15/2029	\$ 2,135,432.68	\$ 38,741.02	\$ 3,203.15	\$ 3,203.15	\$ 45,147.32	\$ 2,096,691.66
6/15/2030	\$ 2,096,691.66	\$ 38,799.13	\$ 3,145.04	\$ 3,145.04	\$ 45,089.21	\$ 2,057,892.52
12/15/2030	\$ 2,057,892.52	\$ 38,857.33	\$ 3,086.84	\$ 3,086.84	\$ 45,031.01	\$ 2,019,035.19
6/15/2031	\$ 2,019,035.19	\$ 38,915.62	\$ 3,028.55	\$ 3,028.55	\$ 44,972.72	\$ 1,980,119.57
12/15/2031	\$ 1,980,119.57	\$ 38,973.99	\$ 2,970.18	\$ 2,970.18	\$ 44,914.35	\$ 1,941,145.58
6/15/2032	\$ 1,941,145.58	\$ 39,032.45	\$ 2,911.72	\$ 2,911.72	\$ 44,855.89	\$ 1,902,113.13
12/15/2032	\$ 1,902,113.13	\$ 39,091.00	\$ 2,853.17	\$ 2,853.17	\$ 44,797.34	\$ 1,863,022.13
6/15/2033	\$ 1,863,022.13	\$ 39,149.64	\$ 2,794.53	\$ 2,794.53	\$ 44,738.70	\$ 1,823,872.49
12/15/2033	\$ 1,823,872.49	\$ 39,208.36	\$ 2,735.81	\$ 2,735.81	\$ 44,679.98	\$ 1,784,664.13
6/15/2034	\$ 1,784,664.13	\$ 39,267.17	\$ 2,677.00	\$ 2,677.00	\$ 44,621.17	\$ 1,745,396.95
12/15/2034	\$ 1,745,396.95	\$ 39,326.08	\$ 2,618.10	\$ 2,618.10	\$ 44,562.27	\$ 1,706,070.88
6/15/2035	\$ 1,706,070.88	\$ 39,385.06	\$ 2,559.11	\$ 2,559.11	\$ 44,503.28	\$ 1,666,685.81
12/15/2035	\$ 1,666,685.81	\$ 39,444.14	\$ 2,500.03	\$ 2,500.03	\$ 44,444.20	\$ 1,627,241.67
6/15/2036	\$ 1,627,241.67	\$ 39,503.31	\$ 2,440.86	\$ 2,440.86	\$ 44,385.03	\$ 1,587,738.36
12/15/2036	\$ 1,587,738.36	\$ 39,562.56	\$ 2,381.61	\$ 2,381.61	\$ 44,325.78	\$ 1,548,175.80
6/15/2037	\$ 1,548,175.80	\$ 39,621.91	\$ 2,322.26	\$ 2,322.26	\$ 44,266.43	\$ 1,508,553.89
12/15/2037	\$ 1,508,553.89	\$ 39,681.34	\$ 2,262.83	\$ 2,262.83	\$ 44,207.00	\$ 1,468,872.55
6/15/2038	\$ 1,468,872.55	\$ 39,740.86	\$ 2,203.31	\$ 2,203.31	\$ 44,147.48	\$ 1,429,131.69
12/15/2038	\$ 1,429,131.69	\$ 39,800.47	\$ 2,143.70	\$ 2,143.70	\$ 44,087.87	\$ 1,389,331.22
6/15/2039	\$ 1,389,331.22	\$ 39,860.17	\$ 2,084.00	\$ 2,084.00	\$ 44,028.17	\$ 1,349,471.05
12/15/2039	\$ 1,349,471.05	\$ 39,919.96	\$ 2,024.21	\$ 2,024.21	\$ 43,968.38	\$ 1,309,551.08
6/15/2040	\$ 1,309,551.08	\$ 39,979.84	\$ 1,964.33	\$ 1,964.33	\$ 43,908.50	\$ 1,269,571.24
12/15/2040	\$ 1,269,571.24	\$ 40,039.81	\$ 1,904.36	\$ 1,904.36	\$ 43,848.53	\$ 1,229,531.42
6/15/2041	\$ 1,229,531.42	\$ 40,099.87	\$ 1,844.30	\$ 1,844.30	\$ 43,788.47	\$ 1,189,431.55
12/15/2041	\$ 1,189,431.55	\$ 40,160.02	\$ 1,784.15	\$ 1,784.15	\$ 43,728.32	\$ 1,149,271.53
6/15/2042	\$ 1,149,271.53	\$ 40,220.26	\$ 1,723.91	\$ 1,723.91	\$ 43,668.08	\$ 1,109,051.26
12/15/2042	\$ 1,109,051.26	\$ 40,280.59	\$ 1,663.58	\$ 1,663.58	\$ 43,607.75	\$ 1,068,770.67
6/15/2043	\$ 1,068,770.67	\$ 40,341.01	\$ 1,603.16	\$ 1,603.16	\$ 43,547.33	\$ 1,028,429.65
12/15/2043	\$ 1,028,429.65	\$ 40,401.53	\$ 1,542.64	\$ 1,542.64	\$ 43,486.82	\$ 988,028.13
6/15/2044	\$ 988,028.13	\$ 40,462.13	\$ 1,482.04	\$ 1,482.04	\$ 43,426.21	\$ 947,566.00
12/15/2044	\$ 947,566.00	\$ 40,522.82	\$ 1,421.35	\$ 1,421.35	\$ 43,365.52	\$ 907,043.18
6/15/2045	\$ 907,043.18	\$ 40,583.61	\$ 1,360.56	\$ 1,360.56	\$ 43,304.74	\$ 866,459.57
12/15/2045	\$ 866,459.57	\$ 40,644.48	\$ 1,299.69	\$ 1,299.69	\$ 43,243.86	\$ 825,815.09
6/15/2046	\$ 825,815.09	\$ 40,705.45	\$ 1,238.72	\$ 1,238.72	\$ 43,182.89	\$ 785,109.64
12/15/2046	\$ 785,109.64	\$ 40,766.51	\$ 1,177.66	\$ 1,177.66	\$ 43,121.84	\$ 744,343.14
6/15/2047	\$ 744,343.14	\$ 40,827.66	\$ 1,116.51	\$ 1,116.51	\$ 43,060.69	\$ 703,515.48
12/15/2047	\$ 703,515.48	\$ 40,888.90	\$ 1,055.27	\$ 1,055.27	\$ 42,999.44	\$ 662,626.58
6/15/2048	\$ 662,626.58	\$ 40,950.23	\$ 993.94	\$ 993.94	\$ 42,938.11	\$ 621,676.35
12/15/2048	\$ 621,676.35	\$ 41,011.66	\$ 932.51	\$ 932.51	\$ 42,876.69	\$ 580,664.70
6/15/2049	\$ 580,664.70	\$ 41,073.17	\$ 871.00	\$ 871.00	\$ 42,815.17	\$ 539,591.52
12/15/2049	\$ 539,591.52	\$ 41,134.78	\$ 809.39	\$ 809.39	\$ 42,753.56	\$ 498,456.74
6/15/2050	\$ 498,456.74	\$ 41,196.49	\$ 747.69	\$ 747.69	\$ 42,691.86	\$ 457,260.25
12/15/2050	\$ 457,260.25	\$ 41,258.28	\$ 685.89	\$ 685.89	\$ 42,630.06	\$ 416,001.97
6/15/2051	\$ 416,001.97	\$ 41,320.17	\$ 624.00	\$ 624.00	\$ 42,568.17	\$ 374,681.81
12/15/2051	\$ 374,681.81	\$ 41,382.15	\$ 562.02	\$ 562.02	\$ 42,506.19	\$ 333,299.66
6/15/2052	\$ 333,299.66	\$ 41,444.22	\$ 499.95	\$ 499.95	\$ 42,444.12	\$ 291,855.44
12/15/2052	\$ 291,855.44	\$ 41,506.39	\$ 437.78	\$ 437.78	\$ 42,381.95	\$ 250,349.05
6/15/2053	\$ 250,349.05	\$ 41,568.65	\$ 375.52	\$ 375.52	\$ 42,319.69	\$ 208,780.40
12/15/2053	\$ 208,780.40	\$ 41,631.00	\$ 313.17	\$ 313.17	\$ 42,257.34	\$ 167,149.40
6/15/2054	\$ 167,149.40	\$ 41,693.45	\$ 250.72	\$ 250.72	\$ 42,194.89	\$ 125,455.96
12/15/2054	\$ 125,455.96	\$ 41,755.99	\$ 188.18	\$ 188.18	\$ 42,132.35	\$ 83,699.97
6/15/2055	\$ 83,699.97	\$ 41,818.62	\$ 125.55	\$ 125.55	\$ 42,069.72	\$ 41,881.35
12/15/2055	\$ 41,881.35	\$ 41,881.35	\$ 62.82	\$ 62.82	\$ 42,006.99	\$ 0.00
<b>TOTAL:</b>	<b>\$2,405,000</b>	<b>\$2,405,000</b>	<b>\$111,650.24</b>	<b>\$111,650.24</b>	<b>\$2,628,300.48</b>	

**ATTACHMENT B**

**PROJECT COSTS**

<b><u>COST CLASSIFICATION</u></b>	<b><u>ESTIMATED TOTAL COST</u></b>
1) Administrative and legal expenses	\$ 18,142
2) Land, structures, right-of-ways, appraisals, etc.	\$ 54,426
3) Relocation expenses and payments	\$ -
4) Architectural and engineering fees	\$ 410,840
5) Project inspection fees	\$ 199,564
6) Site work, demolition and removal	\$ -
7) Construction	\$ 2,514,188
8) Equipment	\$ -
9) Miscellaneous	\$ -
<b>10) SUBTOTAL</b> (sum of lines 1-9)	<b>\$ 3,197,160</b>
11) Contingencies	\$ 502,840
<b>12) SUBTOTAL</b> (sum of lines 10-11)	<b>\$ 3,700,000</b>
Less project (program) income	
<b>TOTAL PROJECT COSTS</b> (line 12 minus 13)	<b>\$ 3,700,000</b>
<b><u>SOURCE OF FUNDS</u></b>	
NDEE DWSRF Loan (Principal)	\$ 2,405,000
NDEE DWSRF Loan Forgiveness	\$ 1,295,000
<b>TOTAL PROJECT ASSISTANCE</b>	<b>\$ 3,700,000</b>

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

**OUTLAY SCHEDULE**

	<b>2023</b>	<b>2024</b>	<b>2025</b>
	<b>ESTIMATED OUTLAY</b>	<b>ESTIMATED OUTLAY</b>	<b>ESTIMATED OUTLAY</b>
January	\$ -	\$ 20,000.00	\$ 200,000.00
February	\$ -	\$ 20,000.00	\$ 200,000.00
March	\$ -	\$ 20,000.00	\$ 200,000.00
April	\$ -	\$ 100,000.00	\$ 200,000.00
May	\$ -	\$ 80,000.00	\$ 400,000.00
June	\$ -	\$ 230,000.00	\$ 260,000.00
July	\$ -	\$ 230,000.00	\$ 200,000.00
August	\$ -	\$ 200,000.00	\$ 200,000.00
September	\$ -	\$ 150,000.00	\$ 200,000.00
October	\$ -	\$ 150,000.00	\$ 100,000.00
November	\$ -	\$ 150,000.00	\$ 40,000.00
December	\$ -	\$ 150,000.00	\$ -
<b>ANNUAL TOTAL:</b>	<b>\$ -</b>	<b>\$ 1,500,000</b>	<b>\$ 2,200,000</b>
<b>TOTAL OUTLAY:</b>	<b>\$ -</b>	<b>\$ 1,500,000</b>	<b>\$ 3,700,000</b>

**ATTACHMENT C**

**FINANCIAL CAPABILITIES ANALYSIS**

The City of Crete, NE has requested DWSRF funding assistance of \$3,700,000 to finance a new well, transmission main, and water main replacement in several locations. The City of Crete is eligible for up to 35% DWSRF Loan Forgiveness out of the SRF SFY2024 IUP Program.

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

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

**Analysis of the Water Utility:**

The City of Crete manages and operates a public water system and utilizes water user rates as their user charge system. Table 1 displays the City of Crete’s general gross profit of their revenue and expenses from the operation of their user charge system.

**Table 1  
User Charge System Summary**

Year	Revenue (includes interest income)	Expenses (excludes depreciation)	Gross Profit (Loss) (Revenue minus Expenses)
2020	\$848,196	\$829,956	\$18,240
2021	\$850,886	\$882,825	(\$31,939)
2022	\$888,968	\$845,982	\$42,986

The City of Crete manages their water system utility which generates revenue by assessing use fees on the residents and businesses in Crete. The revenue stream goes towards paying for the operation and maintenance expenses incurred to operate the utility. The water use revenues will be used to pay the debt service due to the proposed water utility loan. The water system utility ran an operating deficit in 2021 and an operating surplus in 2020 and 2022, as shown in Table 1.

As of 9/30/2022, the City of Crete had no existing long-term liabilities for the Water Fund.

The City is eligible for a 30-year DWSRF loan at a per annum interest rate of 0.3 percent plus an annual 0.3 percent administrative fee on the outstanding principal amount. The DWSRF offers loan funding assistance for a total amount of \$3,700,000 minus \$1,295,000 in loan forgiveness for a principal amount of \$2,405,000. An annual debt service of \$91,046, plus the DWSRF Loan Agreement required 10% coverage or \$9,104 for delinquency or loss of users, as shown in Table 2, totals \$100,150 for the first-year debt service, which includes the 10% coverage. Principal and interest repayments of SRF loans are protected by intercept statute Neb. Rev. Stat. §75-1503, which allows the Department to recover delinquent loan payments by intercepting state funds that are paid to the City of Crete.

**Table 2**  
**DWSRF Loan # D311654: \$3,700,000 Total Loan, less Loan Forgiveness of**  
**\$1,295,000, for a Total Principal Loan of \$2,405,000**

DWSRF Loan Term (Years)	Interest Rate	Admin Fee	Estimated First Year Payment	First Year Payment + 10% Coverage
30	0.3%	0.3%	\$91,046	\$100,150

The revenues from the City of Crete's water system utility will be dedicated to repaying the loan. The number of users is estimated at 2,722 total connections. The current water user charge is a base charge of \$18.57 plus \$1.03 per 1,000 gallons used per month for residential customers. The estimated current monthly water bill for 5,000 gallons usage would be \$26.79. Based solely upon the projected users for the City, a user charge increase of \$3.07 per user, per month is recommended for proper debt coverage to service the SRF loan. The new average user rate is estimated to be \$26.79 per month, or \$321.43 annually. A final assessment of revenues and costs will be analyzed to determine the actual user charge adjustment as necessary.

The projected monthly water rate is \$26.79 per month, or \$321.43 annually. This projected household water rate total is 0.68% of the City of Crete's median household income of \$47,022 and is below EPA's 2.5% upper level of water rate affordability.

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## ATTACHMENT D

### LIST OF FEDERAL LAWS AND AUTHORITIES

#### ENVIRONMENTAL:

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

#### ECONOMIC:

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

#### SOCIAL LEGISLATION:

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

#### MISCELLANEOUS AUTHORITY:

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

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

**ATTACHMENT E**

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

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

**[Date]**

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

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

To the Nebraska State Revolving Fund:

I have acted as **[Bond]** Counsel in connection with the execution and delivery by City of Crete (the "Borrower"), of an Agreement for Loan No. D311654 (the "Loan Agreement") between the Borrower and the Nebraska Department of Environment and Energy ("NDEE") and the issuance of a promissory note (the "Note") by the Borrower to the NDEE. All terms used in this opinion letter and not defined shall have the meanings given to them in the Loan Agreement.

In this connection, I have examined the following:

- (a) Certified copies of the **[DESCRIBE RESOLUTION AND/OR ORDINANCE PURSUANT TO WHICH LOAN AGREEMENT AND NOTE ARE TO BE ENTERED INTO]**;
- (b) An executed counterpart of the Loan Agreement;
- (c) The executed Note; and
- (d) Such other documents as I deemed relevant and necessary in rendering this opinion.

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

Based upon the foregoing I am of the opinion that:

1. The Borrower is a City duly organized and validly existing under the laws of the State of Nebraska.
2. The Borrower is a governmental unit, as such term is used in Section 141(b)(6) of the Internal Revenue Code of 1986, as amended.
3. The Borrower has the power and authority to enter into the Loan Agreement, to issue the Note, to borrow the entire principal amount provided for in Section 2.01 of the Loan Agreement (the "Principal Amount") and to perform its obligations under the Loan Agreement and the Note.
4. The Loan Agreement and the Note have been duly authorized, executed and delivered by the Borrower and are, and would be if the entire Principal Amount were advanced to the Borrower pursuant to the Loan Agreement on the date of this opinion, valid and legally binding special obligations of the Borrower, payable solely from the sources provided therefor in the Loan Agreement, enforceable in accordance with

their respective terms, except to the extent that the enforceability thereof may be limited by laws relating to bankruptcy, insolvency or other similar laws affecting creditors' rights generally and general principles of equity.

5. Pursuant, where applicable, to Nebraska Revised State Statutes §§18-1803 through 18-1805; §§31-732, 31-739, and 31-740, and all other applicable statutes governing eligible municipalities, the Loan Agreement creates a valid lien on the funds pledged by the Borrower 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 Borrower is secured by a superior lien on such funds.
6. The Borrower has obtained or made all approvals, authorizations, consents, or other actions of, and filings, registrations, or qualifications with, the Borrower or any other government authority which are legally required to allow the Borrower to enter into and perform its obligations under the Loan Agreement and the Note and borrow the full Principal Amount pursuant to the Loan Agreement and the Note.

Very truly yours,

---

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

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

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

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

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

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

**ATTACHMENT F**

**PROMISSORY NOTE OF THE CITY OF CRETE, NEBRASKA**

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay, but solely from the sources described herein, to the order of the Nebraska Department of Environment and Energy ("NDEE"), or its successors and assigns, the principal sum of not to exceed \$3,700,000 [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. D311654 ("the Loan Agreement"), with interest on each such amount until paid, pursuant to Section 2.03 of the Loan Agreement between the NDEE and the Borrower. In addition, the Borrower shall pay an Administrative Fee on the outstanding principal amount of this Note per annum pursuant to Section 2.04 of the Loan Agreement. The said principal, interest, and Administrative Fee shall be payable in semiannual installments each payable on June 15 and December 15 of each year in accordance with Section 2.06 of the Loan Agreement. Each installment shall be in the amount set forth in Attachment A to the Loan Agreement. The Borrower will pay any penalty or additional interest due pursuant to Section 2.06(d) of this Loan Agreement.

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

This Note is issued pursuant to and is secured by the Loan Agreement of the City of Crete, 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 Dedicated Source of Revenue for the Payment of the Loan, as established in the Loan Agreement, and shall not be payable out of any other revenues of the Borrower. The obligations of the Borrower under this Note shall never constitute or give rise to a charge against its general credit or taxing power. This note shall not be a debt of the Borrower within the meaning of any constitutional statutory or charter limitation upon the creation of general obligation indebtedness of the Borrower.

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

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 CRETE, NEBRASKA

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

Attest: \_\_\_\_\_  
(signature)

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

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

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

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

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

Date \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_

**ATTACHMENT F**  
**PROMISSORY NOTE OF THE CITY OF CRETE, NEBRASKA**

(continued)

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

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

Attested by:

NEBRASKA INVESTMENT FINANCE  
AUTHORITY

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

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

**Note For Borrower:**

**If there are no comments or corrections to be made to Attachment F: Promissory Note, please print page 34, sign, date, and seal (if applicable). Then mail in to:**

Title \_\_\_\_\_  
**Nebraska Department of Environment & Energy**  
Date \_\_\_\_\_  
**ATTN: SRF PROGRAM – Steve McNulty**  
**PO Box 98922**  
**Lincoln, NE 68509-8922**

Title \_\_\_\_\_  
Director  
Date \_\_\_\_\_

**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 CRETE**

The following certifications are made in connection with the Agreement for Loan No. D311654 (the "Loan Agreement") between the Nebraska Department of Environment and Energy ("NDEE") and the City of Crete, Nebraska (the "Borrower") for the purpose of establishing compliance by the Borrower with requirements for the maintenance of the tax exemption of interest on any bonds (the "Bonds") which may be from time to time issued by the Nebraska Investment Finance Authority ("NIFA") to provide funds for deposit in the Fund (as defined in the Loan Agreement).

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

1. The undersigned is authorized to make the following certifications on behalf of the Borrower.
2. The Borrower represents that it reasonably expects that the design and construction of the Project, as defined in this Loan Agreement, will commence within the stated Project Schedule established by Section 2.07 of this Loan Agreement and that the design and construction of the Project will proceed with due diligence thereafter to completion.
3. The proceeds of the loan pursuant to the Loan Agreement will be used for the project identified in Exhibit 1 of this Loan Agreement 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 Crete, Nebraska

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

Title \_\_\_\_\_

(signature)  
Mayor

Date \_\_\_\_\_

**ATTACHMENT H**

**RESOLUTION \_\_\_\_\_**

WHEREAS, the City of Crete, Nebraska recognizes that a properly functioning Public Water 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 Public Water 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 Public Water System may be obtained by loan from the Nebraska Department of Environment and Energy, subject to certain requirements and obligations;

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Board of Trustees of the City of Crete, Nebraska that they should execute the contract for loan between the Nebraska Department of Environment and Energy and the City of Crete, Nebraska designated as Project No. D311654, 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 Environment and Energy and the City of Crete, Nebraska for the purpose of repairing and improving the City's Public Water 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 Crete, 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 – Loan Forgiveness Form

DRAFT

**Attachment I.01**

**LOAN FORGIVENESS AGREEMENT FORM**

**PART I**

**SRF LOAN FORGIVENESS AWARD**

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

- (1) Loan Forgiveness of up to 35% of eligible SRF project costs of this Loan Agreement, not to exceed one million two hundred ninety-five thousand dollars (\$1,295,000).

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

**PART II**

**LOAN FORGIVENESS CERTIFICATION**

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

- (1) The Borrower is not considered a privately owned entity;
- (2) The population at the time of the Loan Forgiveness award for the Borrower is equal to or less than ten thousand inhabitants as determined by the most recent federal decennial census or the most recent revised certified count by the United States Bureau of the Census;
- (3) Based on information from the applicable Intended Use Plan, the Borrower's population is estimated to be 7,099.
- (4) The Borrower has demonstrated serious financial hardship through the assessment and processes established in the related NDEE's State Fiscal Year's (SFY) Intended Use Plan;
- (5) The Borrower's Median Household Income (MHI) as listed in the NDEE's SFY's Intended Use Plan at the time of signing of this Loan Agreement is less than 120% of the State's MHI for that SFY.
- (6) The total amount of Loan Forgiveness cannot exceed 35% of eligible SRF project cost of this Loan Agreement and cannot exceed a maximum of \$1,295,000.

**PART III**

**LOAN FORGIVENESS CONDITIONS**

- (1) The total award of all Loan Forgiveness cannot exceed seventy-five percent of the total amount of eligible Project Costs.
- (2) Application and distribution of all Subsidies will be done pursuant to the terms as established by the Loan Agreement.
- (3) The total subsidy amount may be changed by the NDEE if the eligible project amount changes due to the project costs.

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

**PART IV**

**ACCEPTANCE**

In accepting this award, the Borrower agrees that:

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

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

CITY OF CRETE, NEBRASKA

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

By _____ <small>(signature)</small>	By _____ <small>(signature)</small>
Title _____ <small>Mayor</small>	Title _____ <small>Director</small>
Date _____	Date _____

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