

**CITY OF HAWARDEN
REGULAR CITY COUNCIL MEETING AGENDA
Hawarden City Hall – Council Chambers Room
Wednesday, August 28, 2019 at 5:30 p.m.**

Standard Agenda Items

- 1a. Approval of August 14, 2019 Council Meeting Minutes**
- 1b. Approval of August 28, 2019 Claims for Payment**
- 1c. Open business from the Community (limited to a maximum of 5 minutes per item).**
- 2a. Mayor's Report**
- 2b. Staff Reports/Discussion**
- 2c. Council Comments**

Other Agenda Items

- 3. Resolution 2019-44, a Resolution authorizing and approving a Loan Agreement, providing for the issuance and securing the payment of \$2,340,000 Electric Revenue Bonds, Series 2019**
- 4. Second Reading of Ordinance 714, An Ordinance Amending the Code of Ordinances of the City of Hawarden, Iowa, 2011, by Amending Provisions Pertaining to Conflict of Interest.**
- 5. Second Reading of Ordinance 715, An Ordinance Amending the Code of Ordinances of the City of Hawarden, Iowa, 2011, by Amending Provisions Pertaining to Solid Waste Control.**
- 6. Second Reading of Ordinance 716, An Ordinance Amending the Code of Ordinances of the City of Hawarden, Iowa, 2011, by Amending Provisions Pertaining to Operating Budget Preparation.**
- 7. Approval of the Hedging agreement by and between Public Energy Facilities Authority and the City of Hawarden Municipal Utilities.**
- 8. Consent Agenda**
 - a. Request from Jay Kennedy, dba Thirsty Pigs LLC, for a new 5-day Class C Liquor License with Outdoor Service, effective Thurs., Aug. 29, 2019 for 734 1st St (Demolition Derby).**
- 9. Adjournment**

Next regular council meeting September 11, 2019

City of Hawarden

Public Meeting Procedures

These Procedural rules are to provide for the orderly conduct of City business by the City Council, with the objective of providing for full, open and comprehensive debate of issues brought before the body for action in a forum open to the public, and which encourages citizens' awareness of City Council activities. These procedures do not increase or diminish the existing powers or authority of the Mayor or City Council members, but is intended merely to serve as a general set of guidelines to assist the governmental body in conducting City business.

House Rules:

- No food or drink other than bottled water may be brought into the Council Chambers.
- Cell phones and pagers should be silenced in the Council Chambers.
- Signs and placards are not permitted in the Council Chambers.

Citizens' Right To Be Heard:

It is the Council's goal that citizens resolve their complaints for service or regarding employees' performance at the staff level. However, it is recognized that citizens may from time to time believe it is necessary to speak to City Council on matters of concern. Accordingly, City Council expects any citizen to speak in a civil manner, with due respect for the decorum of the meeting, and with respect for all persons attending.

- No member of the public shall be heard until recognized by the presiding officer.
- Public comments will only be heard during the Public Comment portion of the meeting unless the issue is a Public Hearing.
- Speakers must stand at the dais and speak into the microphone, unless unable to do so, and state your name and address for the record.
- Any citizen requesting to speak shall limit himself or herself to matters of fact regarding the issue of concern.
- Comments should be limited to five (5) minutes unless prior approval by the presiding officer.
- If a representative is elected to speak for a group, the presiding officer may approve an increased time allotment.
- Personal attacks made publicly toward any citizen or city employee are not allowed. Citizens are encouraged to bring their complaints regarding employee performance through the supervisory chain of command in accordance with the City's Personnel policies.
- Any member of the public interrupting City Council proceedings, approaching the dais without permission, otherwise creating a disturbance, or failing to abide by these rules of procedure in addressing the City Council, shall be deemed to have disrupted a public meeting and, at the direction of the presiding officer, shall be removed from the Council Chambers by Police Department personnel or other agent designated by the City Council or City Administrator.

**UNAPPROVED MINUTES REGULAR CITY COUNCIL MEETING
HAWARDEN CITY HALL – COUNCIL CHAMBERS
Wednesday, August 14, 2019 at 5:30 p.m.**

The Council Meeting was called to order at 5:30 p.m.

Present: Mayor Pro Tem Olson; Council Members: Bergsma, Klocke, Feldhacker, Kurth

Absent: Mayor Porter

Staff Present: Mike DeBruin, City Administrator/City Clerk; Travis Waterman, Public Works

Director; Larry Cope, Economic Development Director; Corey Utech, Chief of Police; Jim Pickner,

City Attorney; Pam Wakeman

Absent: Jacob Stoner, Finance Officer

Standard Agenda Items

1a. Approval of July 24, 2019 Regular Council Meeting Minutes.

Moved by Feldhacker/Kurth to approve the July 24, 2019 Regular Council Meeting Minutes.

Motion carried 5-0.

1b. Approval of Claims for Payment.

Moved by Kurth/Bergsma to approve the August 14, 2019 Claims for Payment.

Motion carried 5-0.

1c. No Open Business from the Community was held.

2a. Mayor's Report was given.

2b. Staff Reports were given.

2c. Council Comments were given.

Agenda Items

Item 3. Hospital Update – Jayson Pullman

Jayson was present to give an update.

Item 4. Presentation by Bridget Durst, Iowa Department of Natural Resources, Source Water Protection Planning Presentation

Bridget gave a presentation on creating a plan to develop a Source Water Protection Plan.

Item 5. Resolution 2019-41, Approving Bond Purchase Agreement for the Sale of Bonds thereunder.

Michael Maloney from DA Davidson was present & addressed council.

Moved by Feldhacker/Kurth to approve.

Aye: Feldhacker, Bergsma, Klocke, Olson, Kurth Nay: None Motion carried 5-0.

Item 6. a. Public Hearing on proposal to enter into a Sewer Revenue Loan and Disbursement Agreement.

No written or oral comments for the public hearing were received.

b. Resolution 2019-42, Authorizing and Approving a Loan and Disbursement Agreement and Providing for Issuance and Securing the Payment of \$3,510,000 Sewer Revenue Bonds, Series 2019.

Moved by Feldhacker/Bergsma to approve.

Aye: Feldhacker, Bergsma, Klocke, Olson, Kurth Nay: None Motion carried 5-0.

Item 7. Third Reading of Ordinance 712, Amending the Code of Ordinances of the City of Hawarden, Iowa by Amending Provisions Pertaining to Wastewater Utility Rates.

Moved by Kurth/Bergsma to approve.

Aye: Klocke, Olson, Kurth, Feldhacker, Bergsma Nay: None Motion carried 5-0.

Item 8. First Reading of Ordinance 714, Amending the Code of Ordinances of the City of Hawarden, 2011, by Amending Provisions Pertaining to Conflict of Interest.

Moved by Klocke/Bergsma to approve.

Aye: Kurth, Feldhacker, Bergsma, Klocke, Olson Nay: None Motion carried 5-0.

Item 9. First Reading of Ordinance 715, Amending the Code of Ordinances of the City of Hawarden, Iowa, 2011, by Amending Provisions Pertaining to Solid Waste Control.

Moved by Bergsma/Kurth to approve.

Aye: Olson, Kurth, Feldhacker, Bergsma, Klocke Nay: None Motion carried 5-0.

Item 10. First Reading of Ordinance 716, Amending the Code of Ordinances of the City of Hawarden, Iowa, 2011, by Amending Provisions Pertaining to Operating Budget Preparation.

Moved by Feldhacker/Klocke to approve.

Aye: Bergsma, Klocke, Olson, Kurth, Feldhacker Nay: None Motion carried 5-0.

Item 11. a. Public Hearing regarding the Final Disposition of Public Real Property.

No written or oral comments were received.

b. Resolution 2019-43, Authorizing the Final Disposition of Real Estate.

Moved by Feldhacker/Bergsma to approve.

Aye: Klocke, Olson, Kurth, Feldhacker, Bergsma Nay: None Motion carried 5-0.

Item 12. Consent Agenda

- a. Request from Brian Engleman, dba Sportsman's Lanes & Lounge, for a Liquor License Transfer to Hawarden Community Center on Sat., Sept. 7, 2019.
- b. Request from Brian Engleman, dba Sportsman's Lanes & Lounge, for Renewal of Class C Liquor License for on premise sales of Liquor, Beer and Wine with Outdoor Service and Sunday Sales.
- c. Request from Adam Waterman, dba The Other Bar, for Renewal of Class C Liquor License for on premise sales of Liquor, Beer and Wine with Sunday Sales.
- d. Request from Hawarden Fraternal Order of Eagles #1865 for Renewal of Class C Liquor License for on premise sales of Liquor, Beer and Wine with Outdoor Service & Sunday Sales.

Moved by Klocke/Bergsma to approve. Motion carried 5-0.

Mayor, council & staff will tour the Nature Center at 4:00 p.m. on Wed., Sept. 11, 2019.

Item 13. Closed Session pursuant to Chapter 20.17(3) which exempts negotiating sessions and strategy meetings of public employers in the collective bargaining process.

Moved by Bergsma/Feldhacker to enter into Closed Session at 6:15 p.m.

Aye: Klocke, Olson, Kurth, Feldhacker, Bergsma Nay: None Motion carried 5-0.

Moved by Kurth/Klocke to return to Open Session at 6:33 p.m.

Aye: Kurth, Feldhacker, Bergsma, Klocke, Olson Nay: None Motion carried 5-0.

Moved by Olson/Klocke for City Administrator to continue negotiations and extending the union contract for 1 year. Motion carried 5-0.

Item 14. Adjournment.

The next regular City Council Meeting will be Wednesday, August 28, 2019 @ 5:30 p.m.

Moved by Bergsma/Feldhacker to adjourn the meeting. Motion carried 5-0.

Meeting adjourned at 6:34 p.m.

Travis Olson, Mayor Pro Tem

ATTEST:

Michael De Bruin, City Administrator/City Clerk

**CITY OF HAWARDEN
COUNCIL MEETING
AUGUST 28, 2019**

DATE	CHECK NO	VENDOR NAME	REFERENCE	TOTAL
8/15/2019	54385	FLEX PLAN	08/2019 PAYMENT	\$ 1,013.74
8/16/2019	54386	BIG SIOUX EMBROIDERY	LOGO SHIRTS	\$ 104.00
8/16/2019	54387	BRODART CO	LAPTOP CART	\$ 882.00
8/16/2019	54388	COUNSEL	COPIER CONTRACT	\$ 76.20
8/16/2019	54389	JULIE COYLE	MILEAGE	\$ 52.20
8/16/2019	54390	THE DES MOINES REGISTER	RENEWAL	\$ 319.33
8/16/2019	54391	FINDAWAY WORLD LLC	AUDIO BOOKS	\$ 370.19
8/16/2019	54392	GALE/CENGAGE LEARNING	LARGE PRINT BOOKS	\$ 259.68
8/16/2019	54393	GREATAMERICA FINANCIAL SVCS	COPIER LEASE	\$ 58.14
8/16/2019	54394	PETTY CASH	POSTAGE	\$ 240.54
8/16/2019	54395	HITEC	PHONE SERVICE	\$ 81.25
8/16/2019	54396	INGRAM LIBRARY SERVICES	BOOKS	\$ 1,532.25
8/16/2019	54397	IOWA COMMUNICATIONS NETWORK	LONG DISTANCE	\$ 9.12
8/16/2019	54398	IOWA INFORMATION INC	EVENTS	\$ 274.26
8/16/2019	54399	JASON JANS	LAWN MAINTENANCE	\$ 390.00
8/16/2019	54400	LORI JUHLIN	MILEAGE	\$ 52.20
8/16/2019	54401	KANSAS CITY AUDIO-VISUAL, INC.	SMART BOARD & CART	\$ 5,254.00
8/16/2019	54402	LAURA F. KEYES	PROGRAM FEE	\$ 320.00
8/16/2019	54403	LEGACY CARPET SERVICE	CARPET CLEANING	\$ 1,664.48
8/16/2019	54404	MPLC	MOVIE LICENSE	\$ 118.65
8/16/2019	54405	OLSONS PEST TECHNICIANS	PEST CONTROL	\$ 45.00
8/16/2019	54406	OVERDRIVE INC	DATABASE CONTENT	\$ 620.90
8/16/2019	54407	RENT-ALL INC	DUNK TANK RENTAL	\$ 195.00
8/16/2019	54408	SCHOENEMAN BROS CO	STAKES	\$ 11.17
8/16/2019	54409	SCHOOL OUTFITTERS	MEETING ROOM TABLES	\$ 5,308.64
8/16/2019	54410	SCOTTS ELECTRIC PLUMBING	A/C FREON	\$ 362.50
8/16/2019	54411	SIOUX CENTER NEWS	SUBSCRIPTION	\$ 32.00
8/16/2019	54412	SMITH ELECTRIC	THERMOSTAT	\$ 258.62
8/16/2019	54413	STATE LIBRARY OF IOWA	BRIDGES PLATFORM FEE	\$ 238.76
8/16/2019	54414	SHANA L. STUART	PROGRAM FEE	\$ 150.00
8/16/2019	54415	VISA	DVD'S	\$ 1,010.20
8/16/2019	54416	KEVIN WOOD	PROGRAM FEE	\$ 275.00
8/23/2019	54417 thru	PAYROLL	PAYCHECKS	\$ -
8/23/2019	55426	PAYROLL	PAYCHECKS	\$ -
8/23/2019	54427	ICMA-RC	457- ICMA	\$ 50.00
8/23/2019	54428	FLEX PLAN	URM/FLEX PLAN	\$ 1,013.74
8/23/2019	54429	AFSCME/IOWA COUNCIL 61	UNION DUES	\$ 301.28
8/28/2019	54430	AIRGAS USA LLC	SUPPLIES	\$ 37.37
8/28/2019	54431	ALLIANCE COMMUNICATIONS	SUPPLIES	\$ 1,166.21
8/28/2019	54432	ALPHA WIRELESS	PAGER REPAIRS	\$ 185.50
8/28/2019	54433	ARTISAN PRESS	UB BILLING FORMS	\$ 680.90
8/28/2019	54434	AUREON NETWORK SERVICES	CALEA	\$ 115.28

DATE	CHECK NO	VENDOR NAME	REFERENCE	TOTAL
8/28/2019	54435	BOOTH PHARMACY INC	SUPPLIES	\$ 39.99
8/28/2019	54436	BORCHERS SUPPLY INC	CHEMICALS	\$ 233.00
8/28/2019	54437	BORDER STATES ELEC SUPPLY	WIRE	\$ 3,740.31
8/28/2019	54438	CONSORTIA CONSULTING	SERVICES JULY	\$ 1,650.00
8/28/2019	54439	BRIAN CORTESIO	CAMPING REFUND	\$ 30.00
8/28/2019	54440	DGR ENGINEERING	STORM WATER PROJ SVC	\$ 11,570.90
8/28/2019	54441	DIGI-KEY ELECTRONICS	SUPPLIES	\$ 163.33
8/28/2019	54442	FELD FIRE	SUPPLIES	\$ 350.00
8/28/2019	54443	FERGUSON WATERWORKS #2516	SUPPLIES	\$ 3,380.30
8/28/2019	54444	GROEBNER	PIPE	\$ 1,644.51
8/28/2019	54445	HAWARDEN REGIONAL HEALTHCARE	PHYSICAL	\$ 60.00
8/28/2019	54446	BRAD HOFLAND	SERVICES	\$ 100.00
8/28/2019	54447	MARY HULLEMAN	RETIREMENT BENEFIT	\$ 508.13
8/28/2019	54448	iconectiv LLC	SPECIAL CHGS & FEES LNP	\$ 22.84
8/28/2019	54449	IOWA DOT	WOOD POST SIGN	\$ 226.08
8/28/2019	54450	IOWA LEAGUE OF CITIES	CONFERENCE	\$ 60.00
8/28/2019	54451	IOWA PUMP WORKS INC	SUPPLIES	\$ 32,608.73
8/28/2019	54452	JACKS UNIFORMS & EQUIPMENT	FIREARM	\$ 415.45
8/28/2019	54453	JOHN DEERE FINANCIAL	SUPPLIES	\$ 218.18
8/28/2019	54454	JOHN R. ANDERSON TRUCKING	HAULING COLD MIX	\$ 808.33
8/28/2019	54455	K & W ELECTRIC INC	DWNTWN ST LIGHT PROJECT	\$ 242,630.00
8/28/2019	54456	KOOI FARM INC	HAULING	\$ 4,905.60
8/28/2019	54457	LONG LINES	MONTHLY MANAGEMENT FEE	\$ 15,054.61
8/28/2019	54458	MANGOLD ENVIRONMENTAL	LAB FEES	\$ 1,008.00
8/28/2019	54459	MIRACLE RECREATION	SUPPLIES	\$ 915.37
8/28/2019	54460	MOW & GLOW LAWN & FLOOR CARE	SERVICE	\$ 100.00
8/28/2019	54461	MUELLER CO	DRILLING MACHINE	\$ 3,039.84
8/28/2019	54462	MUNICIPAL UTILITIES	VOID	\$ -
8/28/2019	54463	MUNICIPAL UTILITIES	UTILITIES	\$ 20,626.21
8/28/2019	54464	NEXSTAR BROADCASTING INC	RETRANSMISSION KCAU-ABC	\$ 4,487.30
8/28/2019	54465	ONE OFFICE SOLUTION	SUPPLIES	\$ 92.20
8/28/2019	54466	PIONEER PRODUCTS, INC	SUPPLIES	\$ 974.68
8/28/2019	54467	PRECISION MIDWEST	SERVICE	\$ 5,670.95
8/28/2019	54468	RESCO	DWNTN PROJECT SUPPLIES	\$ 1,070.30
8/28/2019	54469	JAMES A. RODENBURG	UTILITY REFUND	\$ 126.15
8/28/2019	54470	SCHOENEMAN BROS CO	SUPPLIES	\$ 739.10
8/28/2019	54471	SIouxLAND DISTRICT HEALTH DEPT	LAB FEES	\$ 80.00
8/28/2019	54472	STRIPLIN AIRFIELD	GREEN LENS HELIPAD	\$ 779.65
8/28/2019	54473	TRANSOURCE	PARTS	\$ 1,333.00
8/28/2019	54474	USA BLUEBOOK	TUBING	\$ 361.40
8/28/2019	54475	VERMEER SALES & SERVICE INC	MINI EXCAVATOR	\$ 42,600.00
8/28/2019	54476	VISA	VOID	\$ -
8/28/2019	54477	VISA	CLEANER	\$ 3,265.00
8/28/2019	54478	VSP GRAPHIC GROUP	GRAPHICS	\$ 799.85
8/28/2019	54479	WIGMAN COMPANY	SUPPLIES	\$ 240.85
8/28/2019	11141084	CLAYTON ENERGY CORPORATION	GAS PURCHASE 7/2019	\$ 9,300.47

DATE	CHECK NO	VENDOR NAME	REFERENCE	TOTAL
8/28/2019	11141085	TREASURER STATE OF IOWA	SALES TAX 08/15/19	\$ 3,801.00
8/28/2019	11141086	MISSOURI RIVER ENERGY SVCS	ELECTRIC PURCHASE	\$ 116,421.66
8/23/2019	11141087	WADDELL & REED	457- W&R	\$ 50.00
8/23/2019	11141088	IPERS	IPERS - CITY	\$ 16,317.84
8/23/2019	11141089	WELLMARK	GROUP 125 - FAM	\$ 32,513.75
8/23/2019	11141090	AFLAC	PRE TAX INS PRE	\$ 984.86
8/23/2019	11141091	EFTPS	FED/FICA TAX	\$ 13,614.81
8/23/2019	11141092	IOWA DEPT OF REVENUE	STATE TAX	\$ 4,506.00
		TOTAL ACCOUNTS PAYABLE		\$ 631,370.83
		PAYROLL CHECKS		\$ 44,514.39
				=====
		***** REPORT TOTAL *****		\$ 675,885.22
				=====

GENERAL FUND	\$	100,854.13
ROAD USE TAX FUND	\$	9,048.80
POLICE RETIREMENT FUND	\$	508.13
DOWNTOWN PROJECT	\$	245,708.74
ELEC TRANSMISSION LINE	\$	1,243.50
CAPITAL EQUIPMENT FUND	\$	42,600.00
WATER UTILITY FUND	\$	13,314.35
WASTE WATER UTILITY FUND	\$	58,900.15
ELECTRIC UTILITY FUND	\$	141,218.66
GAS UTILITY FUND	\$	23,781.72
SOLID WASTE UTILITY FUND	\$	255.19
TELECOMMUNICATIONS ADMIN	\$	7,861.32
CABLE/INTERNET UTILITY	\$	19,411.39
TELEPHONE UTILITY FUND	\$	11,179.14

**CITY OF HAWARDEN
COUNCIL MEETING
AUGUST 28, 2019**

DATE	CHECK#	VENDOR NAME	INVOICE DESCRIPTION	INVOICE AMT	TOTAL
8/23/2019	11141090	AFLAC	SUPP.INSURANCE	\$ 492.43	
8/23/2019	11141090	AFLAC	PRE TAX INS PRE	\$ 492.43	\$ 984.86
8/23/2019	54429	AFSCME/IOWA COUNCIL 61	UNION DUES	\$ 150.64	
8/23/2019	54429	AFSCME/IOWA COUNCIL 61	UNION DUES	\$ 150.64	\$ 301.28
8/28/2019	54430	AIRGAS USA LLC	OXYGEN		\$ 37.37
8/28/2019	54431	ALLIANCE COMMUNICATIONS	SUPPLIES		\$ 1,166.21
8/28/2019	54432	ALPHA WIRELESS	PAGER REPAIRS		\$ 185.50
8/28/2019	54433	ARTISAN PRESS	UB BILLING FORMS		\$ 680.90
8/28/2019	54434	AUREON NETWORK SERVICES	TRANSIT TRAFFIC		\$ 115.28
8/16/2019	54386	BIG SIOUX EMBROIDERY	LOGO SHIRTS		\$ 104.00
8/28/2019	54435	BOOTH PHARMACY INC	SUPPLIES		\$ 39.99
8/28/2019	54436	BORCHERS SUPPLY INC	CHEMICALS		\$ 233.00
8/28/2019	54437	BORDER STATES ELEC SUPPLY	WIRE	\$ 1,201.66	
8/28/2019	54437	BORDER STATES ELEC SUPPLY	DWNTWN PROJECT SUPPLIES	\$ 2,008.44	
8/28/2019	54437	BORDER STATES ELEC SUPPLY	SUPPLIES	\$ 530.21	\$ 3,740.31
8/16/2019	54387	BRODART CO	LIB LAPTOP CART		\$ 882.00
8/28/2019	11141084	CLAYTON ENERGY CORPORATION	GAS PURCHASE		\$ 9,300.47
8/28/2019	54438	CONSORTIA CONSULTING	SERVICES JULY		\$ 1,650.00
8/28/2019	54439	BRIAN CORTESIO	CAMPING REFUND		\$ 30.00
8/16/2019	54388	COUNSEL	COPIER CONTRACT		\$ 76.20
8/16/2019	54389	JULIE COYLE	MILEAGE		\$ 52.20
8/16/2019	54390	THE DES MOINES REGISTER	RENEWAL		\$ 319.33
8/28/2019	54440	DGR ENGINEERING	STORM WATER PROJ SVC	\$ 4,865.90	
8/28/2019	54440	DGR ENGINEERING	DRY CREEK LEVY FLOOD CONTROL	\$ 1,609.50	
8/28/2019	54440	DGR ENGINEERING	MISC SVCS EL	\$ 735.00	
8/28/2019	54440	DGR ENGINEERING	CONSTRUCTION ADMIN	\$ 1,243.50	
8/28/2019	54440	DGR ENGINEERING	GIS DEVELOPMENT PROJ	\$ 3,117.00	\$ 11,570.90
8/28/2019	54441	DIGI-KEY ELECTRONICS	SUPPLIES	\$ 79.52	
8/28/2019	54441	DIGI-KEY ELECTRONICS	SUPPLIES	\$ 25.19	

DATE	CHECK#	VENDOR NAME	INVOICE DESCRIPTION	INVOICE AMT	TOTAL
8/28/2019	54441	DIGI-KEY ELECTRONICS	SUPPLIES CIVIL DEFENSE	\$ 36.52	
8/28/2019	54441	DIGI-KEY ELECTRONICS	SUPPLIES CIVIL DEFENSE	\$ 22.10	\$ 163.33
8/23/2019	11141091	EFTPS	FED/FICA TAX		\$ 13,614.81
8/28/2019	54442	FELD FIRE	EQUIPMENT		\$ 350.00
8/28/2019	54443	FERGUSON WATERWORKS #2516	SUPPLIES		\$ 3,380.30
8/16/2019	54391	FINDAWAY WORLD LLC	AUDIO BOOKS		\$ 370.19
8/15/2019	54385	FLEX PLAN	08/2019 PAYMENT	\$ 1,013.74	
8/23/2019	54428	FLEX PLAN	URM/FLEX PLAN	\$ 1,013.74	\$ 2,027.48
8/16/2019	54392	GALE/CENGAGE LEARNING	LARGE PRINT BOOKS	\$ 40.18	
8/16/2019	54392	GALE/CENGAGE LEARNING	LARGE PRINT BOOKS	\$ 46.18	
8/16/2019	54392	GALE/CENGAGE LEARNING	LARGE PRINT BOOKS	\$ 19.79	
8/16/2019	54392	GALE/CENGAGE LEARNING	LARGE PRINT BOOKS	\$ 41.38	
8/16/2019	54392	GALE/CENGAGE LEARNING	LARGE PRINT BOOKS	\$ 70.17	
8/16/2019	54392	GALE/CENGAGE LEARNING	LARGE PRINT BOOKS	\$ 41.98	\$ 259.68
8/16/2019	54393	GREATAMERICA FINANCIAL SVCS	COPIER LEASE		\$ 58.14
8/28/2019	54444	GROEBNER	SUPPLIES	\$ 773.05	
8/28/2019	54444	GROEBNER	SUPPLIES	\$ 871.46	\$ 1,644.51
8/16/2019	54394	PETTY CASH	PETTY CASH		\$ 240.54
8/28/2019	54445	HAWARDEN REGIONAL HEALTHCARE	PHYSICAL		\$ 60.00
8/16/2019	54395	HITEC	PHONE SERVICE		\$ 81.25
8/28/2019	54446	BRAD HOFLAND	08/14/19 CC SERVICES		\$ 100.00
8/28/2019	54447	MARY HULLEMAN	PD RETIREMENT BENEFIT		\$ 508.13
8/23/2019	54427	ICMA-RC	457- ICMA	\$ 25.00	
8/23/2019	54427	ICMA-RC	457- ICMA	\$ 25.00	\$ 50.00
8/28/2019	54448	iconectiv LLC	SPECIAL CHGS & FEES LNP		\$ 22.84
8/16/2019	54396	INGRAM LIBRARY SERVICES	BOOKS		\$ 1,532.25
8/16/2019	54397	IOWA COMMUNICATIONS NETWORK	LONG DISTANCE		\$ 9.12
8/23/2019	11141092	IOWA DEPT OF REVENUE	STATE TAXES	\$ 2,280.00	
8/23/2019	11141092	IOWA DEPT OF REVENUE	STATE TAX	\$ 2,226.00	\$ 4,506.00
8/28/2019	54449	IOWA DOT	WOOD POST SIGN		\$ 226.08
8/16/2019	54398	IOWA INFORMATION INC	EVENTS	\$ 68.88	
8/16/2019	54398	IOWA INFORMATION INC	ABC'S SAFETY	\$ 106.38	
8/16/2019	54398	IOWA INFORMATION INC	SPECIAL PAGES	\$ 99.00	\$ 274.26

DATE	CHECK#	VENDOR NAME	INVOICE DESCRIPTION	INVOICE AMT	TOTAL
8/28/2019	54450	IOWA LEAGUE OF CITIES	CONFERENCE		\$ 60.00
8/28/2019	54451	IOWA PUMP WORKS INC	E-ONE SYSTEM	\$ 19,355.00	
8/28/2019	54451	IOWA PUMP WORKS INC	E-ONE SYSTEM	\$ 13,253.73	\$ 32,608.73
8/23/2019	11141088	IPERS	IPERS - CITY	\$ 8,202.04	
8/23/2019	11141088	IPERS	IPERS - CITY	\$ 8,115.80	\$ 16,317.84
8/28/2019	54452	JACKS UNIFORMS & EQUIPMENT	UNIFORM/SUPPLIES	\$ 368.60	
8/28/2019	54452	JACKS UNIFORMS & EQUIPMENT	UNIFORM/SUPPLIES	\$ 46.85	\$ 415.45
8/16/2019	54399	JASON JANS	YARD CARE		\$ 390.00
8/28/2019	54453	JOHN DEERE FINANCIAL	SUPPLIES	\$ 50.85	
8/28/2019	54453	JOHN DEERE FINANCIAL	SUPPLIES	\$ 32.95	
8/28/2019	54453	JOHN DEERE FINANCIAL	SUPPLIES	\$ 102.00	
8/28/2019	54453	JOHN DEERE FINANCIAL	SUPPLIES	\$ 32.38	\$ 218.18
8/28/2019	54454	JOHN R. ANDERSON TRUCKING	HAULING COLD MIX		\$ 808.33
8/16/2019	54400	LORI JUHLIN	MILEAGE		\$ 52.20
8/28/2019	54455	K & W ELECTRIC INC	DWNTWN ST LIGHT PROJECT		\$ 242,630.00
8/16/2019	54401	KANSAS CITY AUDIO-VISUAL, INC.	SMART BOARD & CART		\$ 5,254.00
8/16/2019	54402	LAURA F. KEYES	PROGRAM FEE		\$ 320.00
8/28/2019	54456	KOOI FARM INC	HAULING		\$ 4,905.60
8/16/2019	54403	LEGACY CARPET SERVICE	CARPET CLEANING		\$ 1,664.48
8/28/2019	54457	LONG LINES	MANAGEMENT FEE		\$ 15,054.61
8/28/2019	54458	MANGOLD ENVIRONMENTAL	LAB FEES	\$ 838.00	
8/28/2019	54458	MANGOLD ENVIRONMENTAL	LAB FEES	\$ 170.00	\$ 1,008.00
8/28/2019	54459	MIRACLE RECREATION	SUPPLIES		\$ 915.37
8/28/2019	11141086	MISSOURI RIVER ENERGY SVCS	ELECTRIC PURCHASE		\$ 116,421.66
8/28/2019	54460	MOW & GLOW LAWN & FLOOR CARE	08/14/19 CC SERVICE		\$ 100.00
8/16/2019	54404	MPLC	MOVIE LICENSE		\$ 118.65
8/28/2019	54461	MUELLER CO	FITTING GAS	\$ 570.75	
8/28/2019	54461	MUELLER CO	REPAIR KIT	\$ 176.75	
8/28/2019	54461	MUELLER CO	HEX CAP SCREW	\$ 41.83	
8/28/2019	54461	MUELLER CO	DRILLING MACHINE	\$ 1,886.07	
8/28/2019	54461	MUELLER CO	SERVICE	\$ 364.44	\$ 3,039.84
8/28/2019	54463	MUNICIPAL UTILITIES	UTILITIES		\$ 20,626.21
8/28/2019	54464	NEXSTAR BROADCASTING INC	RETRANSMISSION	V	\$ 4,487.30

DATE	CHECK#	VENDOR NAME	INVOICE DESCRIPTION	INVOICE AMT	TOTAL
8/16/2019	54405	OLSONS PEST TECHNICIANS	PEST CONTROL		\$ 45.00
8/28/2019	54465	ONE OFFICE SOLUTION	SUPPLIES	\$ 8.87	
8/28/2019	54465	ONE OFFICE SOLUTION	SUPPLIES	\$ 53.50	
8/28/2019	54465	ONE OFFICE SOLUTION	SUPPLIES	\$ 15.64	
8/28/2019	54465	ONE OFFICE SOLUTION	SUPPLIES	\$ 14.19	\$ 92.20
8/16/2019	54406	OVERDRIVE INC	DATABASE CONTENT		\$ 620.90
8/28/2019	54466	PIONEER PRODUCTS, INC	SUPPLIES	\$ 324.88	
8/28/2019	54466	PIONEER PRODUCTS, INC	SUPPLIES	\$ 324.86	
8/28/2019	54466	PIONEER PRODUCTS, INC	SUPPLIES	\$ 324.94	\$ 974.68
8/28/2019	54467	PRECISION MIDWEST	SERVICE		\$ 5,670.95
8/16/2019	54407	RENT-ALL INC	DUNK TANK RENTAL		\$ 195.00
8/28/2019	54468	RESCO	DWNTN PROJECT SUPPLIES	\$ 936.10	
8/28/2019	54468	RESCO	DWNTN PROJECT SUPPLIES	\$ 134.20	\$ 1,070.30
8/28/2019	54469	JAMES A. RODENBURG	UTILITY REFUND		\$ 126.15
8/16/2019	54408	SCHOENEMAN BROS CO	STAKES	\$ 11.17	
8/28/2019	54470	SCHOENEMAN BROS CO	SUPPLIES	\$ 21.60	
8/28/2019	54470	SCHOENEMAN BROS CO	CEMENT BLOCK BRICK SET	ARK 34.30	
8/28/2019	54470	SCHOENEMAN BROS CO	PAINT	\$ 83.98	
8/28/2019	54470	SCHOENEMAN BROS CO	PAINT	\$ 125.97	
8/28/2019	54470	SCHOENEMAN BROS CO	GAPS & CRACKS	\$ 31.74	
8/28/2019	54470	SCHOENEMAN BROS CO	POSTS	\$ 33.57	
8/28/2019	54470	SCHOENEMAN BROS CO	PAINT	\$ 41.99	
8/28/2019	54470	SCHOENEMAN BROS CO	PAINT	\$ 39.99	
8/28/2019	54470	SCHOENEMAN BROS CO	PAINT	\$ 43.99	
8/28/2019	54470	SCHOENEMAN BROS CO	PAINT	\$ 125.97	
8/28/2019	54470	SCHOENEMAN BROS CO	PLYWOOD	\$ 156.00	\$ 750.27
8/16/2019	54409	SCHOOL OUTFITTERS	MEETING ROOM TABLES		\$ 5,308.64
8/16/2019	54410	SCOTTS ELECTRIC PLUMBING	A/C FREON		\$ 362.50
8/16/2019	54411	SIOUX CENTER NEWS	SUBSCRIPTION		\$ 32.00
8/28/2019	54471	SIOUXLAND DISTRICT HEALTH DEPT	LAB FEES	\$ 28.00	
8/28/2019	54471	SIOUXLAND DISTRICT HEALTH DEPT	LAB FEES	\$ 52.00	\$ 80.00
8/16/2019	54412	SMITH ELECTRIC	THERMOSTAT		\$ 258.62
8/16/2019	54413	STATE LIBRARY OF IOWA	BRIDGES PLATEFORM	E 61.00	

DATE	CHECK#	VENDOR NAME	INVOICE DESCRIPTION	INVOICE AMT	TOTAL
8/16/2019	54413	STATE LIBRARY OF IOWA	GALE PACKAGE	\$ 177.76	\$ 238.76
8/28/2019	54472	STRIPLIN AIRFIELD	GREEN LENS HELIPAD		\$ 779.65
8/16/2019	54414	SHANA L. STUART	PROGRAM FEE		\$ 150.00
8/28/2019	54473	TRANSOURCE	SWEEPER		\$ 1,333.00
8/28/2019	11141085	TREASURER STATE OF IOWA	SALES TAX 08/15/19		\$ 3,801.00
8/28/2019	54474	USA BLUEBOOK	TUBING	\$ 147.97	
8/28/2019	54474	USA BLUEBOOK	PUMP	\$ 213.43	\$ 361.40
8/28/2019	54475	VERMEER SALES & SERVICE INC	SUPPLIES		\$ 42,600.00
8/16/2019	54415	VISA	COMPUTER PERIPHERALS	\$ 1,010.20	
8/28/2019	54477	VISA	CLEANER	\$ 190.44	
8/28/2019	54477	VISA	HOTEL	\$ 677.60	
8/28/2019	54477	VISA	PROF DEVELOPERS	\$ 1,197.59	
8/28/2019	54477	VISA	MOTOR	\$ 1,199.37	\$ 4,275.20
8/28/2019	54478	VSP GRAPHIC GROUP	GRAPHICS	\$ 224.90	
8/28/2019	54478	VSP GRAPHIC GROUP	GRAPHICS	\$ 574.95	\$ 799.85
8/23/2019	11141087	WADDELL & REED	457- W&R		\$ 50.00
8/23/2019	11141089	WELLMARK	GROUP 125 - FAM	\$ 16,256.94	
8/23/2019	11141089	WELLMARK	GROUP 125 - FAM	\$ 16,256.81	\$ 32,513.75
8/28/2019	54479	WIGMAN COMPANY	SUPPLIES		\$ 240.85
8/16/2019	54416	KEVIN WOOD	PROGRAM FEE		\$ 275.00
		TOTAL ACCOUNTS PAYABLE			\$ 631,370.83
		PAYROLL CHECKS			\$ 44,514.39
		***** REPORT TOTAL *****			=====
					\$ 675,885.22
					=====

TOTAL CLAIMS BY FUND 8/28/19

GENERAL FUND	\$	100,854.13
ROAD USE TAX FUND	\$	9,048.80
POLICE RETIREMENT FUND	\$	508.13
DOWNTOWN PROJECT	\$	245,708.74
ELEC TRANSMISSION LINE	\$	1,243.50
CAPITAL EQUIPMENT FUND	\$	42,600.00
WATER UTILITY FUND	\$	13,314.35
WASTE WATER UTILITY FUND	\$	58,900.15
ELECTRIC UTILITY FUND	\$	141,218.66
GAS UTILITY FUND	\$	23,781.72
SOLID WASTE UTILITY FUND	\$	255.19
TELECOMMUNICATIONS ADMIN	\$	7,861.32
CABLE/INTERNET UTILITY	\$	19,411.39
TELEPHONE UTILITY FUND	\$	11,179.14
TOTAL REVENUE BY FUND	\$	675,885.22

TREASURER'S REPORT
CALENDAR 8/2019, FISCAL 2/2020

FUND #	TITLE	LAST MONTH CASH BALANCE	REVENUE	EXPENSES	CHANGE IN LIABILITIES	THIS MONTH CASH BALANCE
001	GENERAL FUND	412,325.53	20,051.82	139,645.88	589.88-	292,141.59
008	LIBRARY UNRESTRICTED	93,301.02	.00	.00	.00	93,301.02
009	CONTINGENCY-HOSPITAL	101,096.93	.00	.00	.00	101,096.93
110	ROAD USE TAX FUND	21,253.74	.00	11,837.53	.00	9,416.21
112	EMPLOYEE BENEFITS LEVY	27,136.60-	477.47	27,680.82	.00	54,339.95-
117	POLICE RETIREMENT FUND	508.13-	.00	1,524.39	.00	2,032.52-
119	EMERGENCY LEVY	.00	30.26	.00	.00	30.26
121	LOCAL OPTION SALES TAX	30,331.19	.00	30,331.19	.00	.00
126	TIF AREA A & ADDITION	110,435.67	104.61	.00	.00	110,540.28
127	TIF AREA C	56,070.62	52.08	.00	.00	56,122.70
128	TIF AREA I	187,416.07	416.14	.00	.00	187,832.21
129	TIF AREA D	13,749.65	.00	.00	.00	13,749.65
150	ELEC-REVOLVING LOAN FUN	323,194.29	.00	.00	.00	323,194.29
168	USDA RBEG RLF	68,602.32	.00	.00	.00	68,602.32
177	POLICE FOREFEITURE	478.37	.00	.00	.00	478.37
200	DEBT SERVICE FUND	848.65	.00	.00	.00	848.65
301	CAPITAL IMPROVEMENT FUN	.00	.00	.00	.00	.00
302	STREET SPECIAL ASSESME	.00	.00	.00	.00	.00
303	LOW-MOD. INCOME PROJECT	.00	.00	.00	.00	.00
304	WALKING TRAIL PROJECT	49,167.13	.00	.00	.00	49,167.13
305	STREET PROJECTS	.00	.00	.00	.00	.00
306	MAPPING/WEBSITE PROJECT	560.00	.00	.00	.00	560.00
307	PARKS & REC CAP PROJ FU	.00	.00	.00	.00	.00
308	FLOOD DISASTER 4221	.00	.00	.00	.00	.00
310	PUBLIC WORKS BLD REPLAC	416,653.45	.00	.00	.00	416,653.45
311	CAT GRANT/HEART OF HAW	.00	.00	.00	.00	.00
312	GEN FUND FAC MAIN FUND	79,414.60	.00	.00	.00	79,414.60
313	DOWNTOWN PROJECT	18,719.20-	.00	254,651.74	.00	273,370.94-
314	ELEC TRANSMISSION LINE	24,120.23-	.00	3,418.44	.00	27,538.67-
315	CAPITAL EQUIPMENT FUND	669,128.44	1,158.85	51,821.33	.00	618,465.96
500	GREGG/VI POND LIB TRUSTS	131,390.87	.00	.00	.00	131,390.87
501	LIBRARY GIFTS/DONATIONS	1,258.50	.00	.00	.00	1,258.50
601	WATER UTILITY FUND	209,425.66-	24,906.02	19,372.54	.00	203,892.18-
610	WASTE WATER UTILITY FUN	82,701.81	28,515.22	63,289.82	.00	47,927.21
611	WASETWATER PLANT RENOVA	105,265.29-	.00	.00	.00	105,265.29-
630	ELECTRIC UTILITY FUND	3,546,020.77	119,255.25	173,954.82	.00	3,491,321.20
638	ELECTRIC UPGRADE PROJEC	6.00-	.00	.00	.00	6.00-
640	GAS UTILITY FUND	786,215.11	30,994.74	41,470.11	.00	775,739.74
670	SOLID WASTE UTILITY FUN	101,800.62	13,509.40	26,448.63	6.28	88,867.67
680	HOSPITAL FUND	2,997,291.00	.00	.00	.00	2,997,291.00
700	TELECOMMUNICATIONS ADMI	37,553.32-	.00	10,662.01	.00	48,215.33-
710	CABLE/INTERNET UTILITY	873,046.85	.00	54,248.05	.00	818,798.80
720	TELEPHONE UTILITY FUND	343,620.63-	1,520.12	19,855.28	.00	261,735.95-
800	PROJECT SHARE FUND	1,047.07	35.00	.00	.00	1,082.07
820	SELF-INSURANCE/RISK MGT	27,515.33	.00	2,264.70	1,403.62	26,654.25
830	CAPITAL EQUIPMENT FUND	.00	.00	.00	.00	.00
950	TRUST & AGENCY PROJECTS	.00	.00	.00	.00	.00
Report Total		10,415,960.54	241,026.98	932,477.28	820.02	9,825,550.10

RESOLUTION NO. 2019-44

Resolution authorizing and approving a Loan Agreement, providing for the issuance and securing the payment of \$2,340,000 Electric Revenue Bonds, Series 2019

WHEREAS, the City of Hawarden, in Sioux County, State of Iowa (the “City”), did heretofore establish a Municipal Electric Utility System (the “Utility”), in and for the City, which has continuously supplied electrical service in and to the City and its inhabitants since its establishment; and

WHEREAS, the management and control of the Utility are vested in the City Council (the “Council”) and no board of trustees exists for this purpose; and

WHEREAS, pursuant to a prior resolution of the Council, the City has heretofore issued its \$2,890,000 Electric Revenue Improvement Bonds, Series 2015, dated May 5, 2015 (the “Series 2015 Bonds”), a portion of which remain outstanding; and

WHEREAS, pursuant to a prior resolution of the Council, the City has heretofore issued its \$2,655,000 Electric Revenue Refunding Bonds, Series 2016, dated October 27, 2016 (the “Series 2016 Bonds”), a portion of which remain outstanding; and

WHEREAS, pursuant to the resolutions (the “Outstanding Bond Resolutions”) authorizing the issuance of the Series 2015 Bonds and the Series 2016 Bonds (hereinafter together referred to as the “Outstanding Bonds”), the City reserved the right to issue additional obligations payable from the net revenues of the Utility and ranking on a parity with the Outstanding Bonds under the terms and conditions set forth in the Outstanding Bond Resolutions; and

WHEREAS, the Council has heretofore proposed to enter into an Electric Revenue Loan Agreement (the “Loan Agreement”) and to borrow money thereunder in a principal amount not to exceed \$2,950,000, pursuant to the provisions of Section 384.24A of the Code of Iowa, for the purpose of paying the cost, to that extent, of constructing improvements and extensions to the Utility, and has published notice of the proposed action and has held a hearing thereon on July 10, 2019;

WHEREAS, a Preliminary Official Statement (the “P.O.S.”) has been prepared to facilitate the sale of Electric Revenue Bonds, Series 2019 (the “Bonds”) in evidence of the obligation of the City under the Loan Agreement, and the City Council has made provision for the approval of the P.O.S. and has authorized its use by D.A. Davidson & Co. (the “Underwriter”); and

WHEREAS, the City has entered into a certain Bond Purchase Agreement (the “Bond Purchase Agreement”) with the Underwriter with respect to the Loan Agreement and the Bonds; and

WHEREAS, it is now necessary to make final provision for approval of the Loan Agreement, to authorize the issuance of the Bonds, as Parity Obligations under the Outstanding Bond Resolutions;

NOW, THEREFORE, Be It Resolved by the City Council of the City of Hawarden, Iowa, as follows:

Section 1. The City shall enter into the Loan Agreement with the Underwriter in substantially the form as has been placed on file with the City Council, providing for a loan to the City in the principal amount of \$2,340,000, for the purpose set forth in the preamble hereof.

The Mayor and City Clerk are authorized and directed to sign the Loan Agreement on behalf of the City, and the Loan Agreement is hereby approved.

Section 2. The Bonds, in the aggregate principal amount of \$2,340,000, are hereby authorized to be issued in evidence of the City’s obligations under the Loan Agreement. The Bonds shall be dated September 12, 2019, shall be issued in the denomination of \$5,000 each or any integral multiple thereof and shall mature on June 1 in each of the years, in the respective principal amounts, and bear interest at the respective rates as follows:

<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate Per Annum</u>	<u>Year</u>	<u>Principal Amount</u>	<u>Interest Rate Per Annum</u>
2020	\$ 60,000	3.000%	2027	\$105,000	4.000%
2021	\$ 90,000	3.000%	2028	\$110,000	4.000%
2022	\$ 90,000	3.000%	2031	\$355,000	3.000%
2023	\$ 95,000	3.000%	2033	\$255,000	4.000%
2024	\$ 95,000	3.000%	2036	\$420,000	4.000%
2025	\$100,000	3.000%	2039	\$465,000	2.850%
2026	\$100,000	3.000%			

Section 4. BOKF, N.A., Lincoln, Nebraska, is hereby designated as the Registrar and Paying Agent for the Bonds and may be hereinafter referred to as the “Registrar” or the “Paying Agent.” The City shall enter into an agreement (the “Registrar/Paying Agent Agreement”) with the Registrar, in substantially the form as has been placed on file with the City Council; the Mayor and City Clerk are hereby authorized and directed to sign the Registrar/Paying Agent Agreement on behalf of the City; and the Registrar/Paying Agent Agreement is hereby approved.

The City reserves the right to optionally prepay part or all of the principal of the Bonds maturing in the years 2027 to 2039, inclusive, prior to and in any order of maturity on June 1, 2026, or on any date thereafter upon terms of par and accrued interest. If less than all of the Bonds of any like maturity are to be redeemed, the particular part of those Bonds to be redeemed shall be selected by the Registrar by lot. The Bonds may be called in part in one or more units of \$5,000.

Principal of the Bond maturing on June 1, 2031 is subject to mandatory redemption (by lot, as selected by the Registrar) on June 1, 2029 and June 1, 2030, at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date, in the following principal amounts:

<u>Year</u>	<u>Principal Amount</u>
2029	\$115,000
2030	\$120,000
2031	\$120,000 (Maturity)

Principal of the Bond maturing on June 1, 2033 is subject to mandatory redemption (by lot, as selected by the Registrar) on June 1, 2032, at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date, in the following principal amounts:

<u>Year</u>	<u>Principal Amount</u>
2032	\$125,000
2033	\$130,000 (Maturity)

Principal of the Bond maturing on June 1, 2036 is subject to mandatory redemption (by lot, as selected by the Registrar) on June 1, 2034 and June 1, 2035, at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date, in the following principal amounts:

<u>Year</u>	<u>Principal Amount</u>
2034	\$135,000
2035	\$140,000
2036	\$145,000 (Maturity)

Principal of the Bond maturing on June 1, 2039 is subject to mandatory redemption (by lot, as selected by the Registrar) on June 1, 2037 and June 1, 2038, at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date, in the following principal amounts:

<u>Year</u>	<u>Principal Amount</u>
2037	\$150,000
2038	\$155,000
2039	\$160,000 (Maturity)

If less than the entire principal amount of any Bond in a denomination of more than \$5,000 is to be redeemed, the Registrar will issue and deliver to the registered owner thereof, upon surrender of such original Bond, a new Bond or Bonds, in any authorized denomination, in a total aggregate principal amount equal to the unredeemed balance of the original Bond. Notice of such redemption as aforesaid identifying the Bond or Bonds (or portion thereof) to be

redeemed shall be sent by electronic means or mailed by certified mail to the registered owners thereof at the addresses shown on the City's registration books not less than 30 days prior to such redemption date. Any notice of redemption may contain a statement that the redemption is conditioned upon the receipt by the Paying Agent of funds on or before the date fixed for redemption sufficient to pay the redemption price of the Bonds so called for redemption, and that if funds are not available, such redemption shall be cancelled by written notice to the owners of the Bonds called for redemption in the same manner as the original redemption notice was sent. All of such Bonds as to which the City reserves and exercises the right of redemption and as to which notice as aforesaid shall have been given and for the redemption of which funds are duly provided, shall cease to bear interest on the redemption date.

Accrued interest on the Bonds shall be payable semiannually on the first day of June and December in each year, commencing June 1, 2020. Interest shall be calculated on the basis of a 360-day year comprised of twelve 30-day months. Payment of interest on the Bonds shall be made to the registered owners appearing on the registration books of the City at the close of business on the fifteenth day of the month next preceding the interest payment date and shall be paid to the registered owners at the addresses shown on such registration books. Principal of the Bonds shall be payable in lawful money of the United States of America to the registered owners or their legal representatives upon presentation and surrender of the Bond or Bonds at the office of the Paying Agent.

The Bonds shall be executed on behalf of the City with the official manual or facsimile signature of the Mayor and attested with the official manual or facsimile signature of the City Clerk, and shall be fully registered Bonds without interest coupons. The issuance of the Bonds shall be recorded in the office of the City Treasurer, and the certificate on the back of each Bond shall be executed with the official manual or facsimile signature of the City Treasurer. In case any officer whose signature or the facsimile of whose signature appears on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

The Bonds shall not be valid or become obligatory for any purpose until the Certificate of Authentication thereon shall have been signed by the Registrar.

All of the Bonds and the interest thereon, together with the Outstanding Bonds and any additional obligations as may be hereafter issued and outstanding from time to time ranking on a parity therewith under the conditions set forth herein (which additional obligations are hereinafter sometimes referred to as "Parity Obligations"), shall be payable solely from the Net Revenues of the Utility and the Sinking Fund and certain funds pledged to the payment thereof, which are hereby pledged to the payment of the Bonds. The Bonds shall be a valid claim of the owners thereof only against said Net Revenues and Sinking Fund and certain funds pledged to the payment thereof. None of the Bonds shall be a general obligation of the City, nor payable in any manner by taxation, and under no circumstances shall the City be in any manner liable by reason of the failure of the Net Revenues of the Utility to be sufficient for the payment in whole or in part of the Bonds and the interest thereon.

The Bonds shall be fully registered as to principal and interest in the names of the owners on the registration books of the City kept by the Registrar, and after such registration, payment of the principal thereof and interest thereon shall be made only to the registered owners, or their legal representatives or assigns. Each Bond shall be transferable only upon the registration books of the City upon presentation to the Registrar, together with either a written instrument of transfer satisfactory to the Registrar or the assignment form thereon completed and duly executed by the registered owner or the duly authorized attorney for such registered owner.

The record and identity of the owners of the Bonds shall be kept confidential as provided by Section 22.7 of the Code of Iowa.

Section 5. Notwithstanding anything above to the contrary, the Bonds shall be issued initially as Depository Bonds, with one fully registered Bond for each maturity date, in principal amounts equal to the amount of principal maturing on each such date, and registered in the name of Cede & Co., as nominee for The Depository Trust Company, New York, New York (“DTC”). On original issue, the Bonds shall be deposited with DTC for the purpose of maintaining a book-entry system for recording the ownership interests of its participants and the transfer of those interests among its participants (the “Participants”). In the event that DTC determines not to continue to act as securities depository for the Bonds or the City determines not to continue the book-entry system for recording ownership interests in the Bonds with DTC, the City will discontinue the book-entry system with DTC. If the City does not select another qualified securities depository to replace DTC (or a successor depository) in order to continue a book-entry system, the City will register and deliver replacement bonds in the form of fully registered certificates, in authorized denominations of \$5,000 or integral multiples of \$5,000, in accordance with instructions from Cede & Co., as nominee for DTC. In the event that the City identifies a qualified securities depository to replace DTC, the City will register and deliver replacement bonds, fully registered in the name of such depository, or its nominee, in the denominations as set forth above, as reduced from time to time prior to maturity in connection with redemptions or retirements by call or payment, and in such event, such depository will then maintain the book-entry system for recording ownership interests in the Bonds.

Ownership interest in the Bonds may be purchased by or through Participants. Such Participants and the persons for whom they acquire interests in the Bonds as nominees will not receive certificated Bonds, but each such Participant will receive a credit balance in the records of DTC in the amount of such Participant’s interest in the Bonds, which will be confirmed in accordance with DTC’s standard procedures. Each such person for which a Participant has an interest in the Bonds, as nominee, may desire to make arrangements with such Participant to have all notices of redemption or other communications of the City to DTC, which may affect such person, forwarded in writing by such Participant and to have notification made of all interest payments.

The City will have no responsibility or obligation to such Participants or the persons for whom they act as nominees with respect to payment to or providing of notice for such Participants or the persons for whom they act as nominees.

As used herein, the term “Beneficial Owner” shall hereinafter be deemed to include the person for whom the Participant acquires an interest in the Bonds.

DTC will receive payments from the City, to be remitted by DTC to the Participants for subsequent disbursement to the Beneficial Owners. The ownership interest of each Beneficial Owner in the Bonds will be recorded on the records of the Participants whose ownership interest will be recorded on a computerized book-entry system kept by DTC.

When reference is made to any action which is required or permitted to be taken by the Beneficial Owners, such reference shall only relate to those permitted to act (by statute, regulation or otherwise) on behalf of such Beneficial Owners for such purposes. When notices are given, they shall be sent by the City to DTC, and DTC shall forward (or cause to be forwarded) the notices to the Participants so that the Participants can forward the same to the Beneficial Owners.

Beneficial Owners will receive written confirmations of their purchases from the Participants acting on behalf of the Beneficial Owners detailing the terms of the Bonds acquired. Transfers of ownership interest in the Bonds will be accomplished by book entries made by DTC and the Participants who act on behalf of the Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in the Bonds, except as specifically provided herein. Interest and principal will be paid when due by the City to DTC, then paid by DTC to the Participants and thereafter paid by the Participants to the Beneficial Owners.

Section 6. The Bonds shall be in substantially the following form:

Resolution at a redemption price of 100% of the principal amount thereof to be redeemed, plus accrued interest thereon to the redemption date.

If less than the entire principal amount of any Bond in a denomination of more than \$5,000 is to be redeemed, the Registrar will issue and deliver to the registered owner thereof, upon surrender of such original Bond, a new Bond or Bonds, in any authorized denomination, in a total aggregate principal amount equal to the unredeemed balance of the original Bond. Notice of such redemption as aforesaid identifying the Bond or Bonds (or portion thereof) to be redeemed shall be sent by electronic means or by certified mail to the registered owners thereof at the addresses shown on the City's registration books not less than 30 days prior to such redemption date. All of such Bonds as to which the City reserves and exercises the right of redemption and as to which notice as aforesaid shall have been given and for the redemption of which funds are duly provided, shall cease to bear interest on the redemption date.

The Bonds are not general obligations of the City but, together with the City's outstanding Electric Revenue Improvement Bonds, Series 2015, dated May 5, 2015; Electric Revenue Refunding Bonds, Series 2016, dated October 27, 2016; and any additional obligations as may be hereafter issued and outstanding from time to time ranking on a parity therewith under the conditions set forth in the Resolution, are payable solely and only out of the future Net Revenues of the Utility, a sufficient portion of which has been ordered set aside and pledged for that purpose. This Bond is not payable in any manner by taxation, and under no circumstances shall the City be in any manner liable by reason of the failure of the said Net Revenues to be sufficient for the payment of this Bond and the interest hereon.

This Bond is fully negotiable but shall be fully registered as to both principal and interest in the name of the owner on the books of the City in the office of the Registrar, after which no transfer shall be valid unless made on said books and then only upon presentation of this Bond to the Registrar, together with either a written instrument of transfer satisfactory to the Registrar or the assignment form hereon completed and duly executed by the registered owner or the duly authorized attorney for such registered owner.

The City, the Registrar and the Paying Agent may deem and treat the registered owner hereof as the absolute owner for the purpose of receiving payment of or on account of principal hereof, premium, if any, and interest due hereon and for all other purposes, and the City, the Registrar and the Paying Agent shall not be affected by any notice to the contrary.

And It Is Hereby Certified, Recited and Declared that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds have existed, have happened and have been performed in due time, form and manner, as required by law, and that the issuance of the Bonds does not exceed or violate any constitutional or statutory limitation or provision.

IN TESTIMONY WHEREOF, the City of Hawarden, Iowa, by its City Council, has caused this Bond to be executed with the duly authorized facsimile signature of the Mayor and attested with the duly authorized facsimile signature of the City Clerk, all as of September 12, 2019.

CITY OF HAWARDEN, IOWA

By (Facsimile Signature)
Mayor

Attest:

(Facsimile Signature)
City Clerk

Registration Date: (Registration Date)

REGISTRAR'S CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds described in the within-mentioned Resolution.

BOKF, N.A.
Lincoln, Nebraska
Registrar

By (Facsimile Signature)
Authorized Officer

STATEMENT OF INSURANCE

Build America Mutual Assurance Company ("BAM"), New York, New York, has delivered its municipal bond insurance policy (the "Policy") with respect to the scheduled payments due of principal of and interest on this Bond to BOKF, N.A., Lincoln, Nebraska or its successor, as paying agent for the Bonds (the "Paying Agent"). Said Policy is on file and available for inspection at the principal office of the Paying Agent and a copy thereof may be obtained from BAM or the Paying Agent. All payments required to be made under the Policy shall be made in accordance with the provisions thereof. By its purchase of these Bonds, the owner acknowledges and consents (i) to the subrogation and all other rights of BAM as more fully set forth in the Policy and (ii) that upon the occurrence and continuance of a default or an event of default under the Resolution or this Bond, BAM shall be deemed to be the sole owner of the Bonds for all purposes and shall be entitled to control and direct the enforcement of all rights and remedies granted to the owners of the Bonds or the trustee, paying agent, registrar or similar agent for the benefit of such owners under the Resolution, at law or in equity.

STATE OF IOWA
COUNTY OF SIOUX
CITY OF HAWARDEN

SS: CITY TREASURER'S CERTIFICATE

The original issuance of the Bonds, of which this Bond is a part, was duly and properly recorded in my office as of September 12, 2019.

By (Facsimile Signature)
City Treasurer, Hawarden, Iowa

ABBREVIATIONS

The following abbreviations, when used in this Bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM	-	as tenants in common	UTMA	_____
				(Custodian)
TEN ENT	-	as tenants by the entireties	As Custodian for	_____
TEN	-	as joint tenants with right of survivorship and not as tenants in common		(Minor)
			under Uniform Transfers to Minors Act	_____
				(State)

Additional abbreviations may also be used though not in the list above.

ASSIGNMENT

For valuable consideration, receipt of which is hereby acknowledged, the undersigned assigns this Bond to

(Please print or type name and address of Assignee)

PLEASE INSERT SOCIAL SECURITY OR OTHER
IDENTIFYING NUMBER OF ASSIGNEE

and does hereby irrevocably appoint _____, Attorney, to transfer this Bond on the books kept for registration thereof with full power of substitution.

Dated: _____

Signature guaranteed:

Signature(s) must be guaranteed by an eligible guarantor institution which is a member of a recognized signature guarantee program.

NOTICE: The signature to this Assignment must correspond with the name of the registered owner as it appears on this Bond in every particular, without alteration or enlargement or any change whatever.

Section 7 The Bonds shall be executed as herein provided as soon after the adoption of this resolution as may be possible and thereupon they shall be delivered to the Registrar for registration, authentication and delivery to or on behalf of the Underwriter, upon receipt of the loan proceeds, including original issue premium (\$154,824.40) (the "Loan Proceeds"), and all action heretofore taken in connection with the Loan Agreement is hereby ratified and confirmed in all respects.

A portion of the Loan Proceeds (\$40,950) will be retained by the Underwriter as the Underwriter's Discount.

A portion of the Loan Proceeds (\$14,613.91) received from the sale of the Bonds shall be used to pay the bond insurance premium to Build America Mutual Assurance Company.

A portion of the Loan Proceeds (\$2,400,000), plus the additional proceeds (\$3,986.91), received from the sale of the Bonds shall be deposited in a dedicated fund (the "Project Fund"), which is hereby created, to be used for the payment of costs of the Project and to the extent that such proceeds (the "Project Proceeds") remain after the full payment of the costs of the Project, such Project Proceeds, shall be transferred to the Sinking Fund (as hereinafter defined) for the payment of interest on the Bonds.

A portion of the Loan Proceeds (\$5,023.58) will be used for the payment of premium for the purchasing of a debt service reserve fund insurance policy as referenced in Sections 10(B) and Section 20 below.

The remainder of the Loan Proceeds (\$30,250) (the "Cost of Issuance Proceeds"), received from the sale of the Bonds shall be deposited in the Project Fund, and shall be used for the payment of costs of issuance of the Bonds, and to the extent that Cost of Issuance Proceeds remain after the full payment of the costs of issuance of the Bonds, such Cost of Issuance Proceeds shall be transferred to the Sinking Fund for the payment of interest on the Bonds.

The City shall keep a detailed and segregated accounting of the expenditure of, and investment earnings on, the Loan Proceeds to ensure compliance with the requirements of the Internal Revenue Code, as hereinafter defined.

Section 8. So long as any of the Bonds, the Outstanding Bonds or any Parity Obligations are outstanding, the City shall continue to maintain the Utility in good condition, and the Utility shall continue to be operated in an efficient manner and at a reasonable cost as a revenue producing undertaking. The City Council shall establish, impose, adjust and provide for the collection of rates to be charged to customers of the Utility, including the City, to produce gross revenues (hereinafter sometimes referred to as the "Gross Revenues") at least sufficient to pay the expenses of operation and maintenance of the Utility, which shall include salaries, wages, cost of maintenance and operation, materials, supplies, insurance and all other items normally included under recognized accounting practices (but does not include allowances for depreciation in the valuation of physical property) (which such expenses are hereinafter sometimes referred to as the "Operating Expenses") and to leave a balance of net revenues (herein referred to as the "Net Revenues") equal to at least 110% of the amount of the average annual payments of principal of and interest on all of the Bonds, the Outstanding Bonds and any

Parity Obligations outstanding from time to time, as the same become due, and to maintain a reasonable reserve for the payment of such principal and interest, as hereinafter provided.

Section 9 The provisions, covenants, undertakings and stipulations for the operation of the Utility and for the collection, application and use of the Gross Revenues and income from such operation, as set forth in the Outstanding Bond Resolutions (including without limitation the establishment and maintenance of the funds described therein) shall inure and appertain to the Bonds to the same extent and with like force and effect as if herein set out in full, except only insofar as the same may be inconsistent with this resolution. Such provisions, covenants, undertakings and stipulations shall remain in full force and effect for the benefit of the Underwriter and the Bonds in the event the Outstanding Bonds are paid in full or otherwise cease to be outstanding.

Nothing in this resolution shall be construed to impair the rights vested in the registered holders of the Outstanding Bonds. The amounts herein required to be paid into the various funds hereinafter referred to shall be in addition to all payments required in respect to the Outstanding Bond Resolutions. The provisions of the Outstanding Bond Resolutions and the provisions of this resolution are to be construed whenever possible so that the same will not be in conflict. In the event such construction is not possible, the provisions of the resolution first adopted shall prevail until such time as the obligations authorized by such resolution have been paid or otherwise satisfied as therein provided, at which time the provisions of this resolution shall again prevail.

Section 10. The provisions in and by the Outstanding Bond Resolutions whereby there has been created and is to be maintained an Electric Revenue Fund (herein referred to as the "Revenue Fund") are all hereby ratified and confirmed and after the issuance of the Bonds, the Gross Revenues of the Utility shall continue to be set aside into the City's Revenue Fund. The Revenue Fund shall be used in maintaining and operating the Utility, and after payment of the Operating Expenses shall, to the extent hereinafter provided, be used to pay the principal of and interest on the Bonds, the Outstanding Bonds and any Parity Obligations, and to create and maintain the several separate funds hereinafter established and in the following priority.

A. Sinking Fund. The provisions in and by the Outstanding Bond Resolutions whereby there has been created and is to be maintained an Electric Revenue Bond Sinking Fund (herein referred to as the "Sinking Fund"), and for the payment into said fund from the Net Revenues of the Utility such portion thereof as will be sufficient to pay the interest on and principal of the Outstanding Bonds, are all hereby ratified and confirmed, and all such provisions shall inure and constitute the security for the payment of the interest on and principal of the Bonds hereby authorized as may be outstanding from time to time; provided, however that on the first day of each month of each year, the minimum amount to be set aside, in addition to the amounts required to be set aside in the Outstanding Bond Resolutions and paid into the Sinking Fund shall be not less than as follows:

Commencing on October 1, 2019, and continuing to and including, May 1, 2020 , an amount equal to 1/8th of the installment of interest coming due on June 1, 2020, and, thereafter, commencing on June 1, 2020, and continuing to final maturity, an amount equal to 1/6th of the installment of interest coming due on

the next succeeding interest payment date on the then outstanding Bonds. In addition, commencing on October 1, 2019 and continuing to and including May 1, 2020, an amount equal to 1/8th of the installment of principal coming due on June 1, 2020, and thereafter, commencing on June 1, 2020, and continuing to final maturity, an amount equal to 1/12th of the installment of principal coming due on such Bonds on the next succeeding principal payment date until the full amount of such installment is on deposit in the Sinking Fund.

Money in the Sinking Fund shall be used solely for the purpose of paying principal of and interest on the Bonds, the Outstanding Bonds and any Parity Obligations as the same shall become due and payable. Whenever Parity Obligations are issued under the conditions and restrictions hereinafter set forth, provisions shall be made for additional payments to be made into the Sinking Fund for the purpose of paying the interest on and principal of such Parity Obligations.

If at any time there be a failure to pay into the Sinking Fund the full amount above stipulated, then an amount equivalent to the deficiency shall be paid into the Sinking Fund from the Net Revenues of the Utility as soon as available, and the same shall be in addition to the amount otherwise required to be so set apart and paid into the Sinking Fund.

No further payments need be made into the Sinking Fund when and so long as the amount therein is sufficient to retire all of the Bonds, the Outstanding Bonds and any Parity Obligations then outstanding which are payable from the Sinking Fund and to pay all interest to become due thereon prior to such retirement, or if provision for such payment has been made.

All of such payments required to be made into the Sinking Fund shall be made in equal monthly installments on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday, then such payments shall be made on the next succeeding secular day. Sinking Fund from the Net Revenues of the Utility as soon as available, and the same shall be in addition to the amount otherwise required to be so set apart and paid into the Sinking Fund.

B. Reserve Fund. The provisions in and by the Outstanding Bond Resolutions, whereby there has been created and is to be maintained a Debt Service Reserve Fund (hereinafter referred to as the "Outstanding Bonds Reserve Fund"), are hereby confirmed and inure to the benefit of the holders of the Outstanding Bonds, and the City shall continue to deposit such portion of the amounts into the Outstanding Bonds Reserve Fund as required by the Outstanding Bonds Resolution. Neither the Bonds, nor any owner of the Bonds, shall have a claim on the Outstanding Bonds Reserve Fund so long as the Outstanding Bonds remain outstanding.

There is hereby created, and shall be maintained, a special fund to be known and designated as the "Series 2019 Reserve Fund" (and, together with the Outstanding Bonds Reserve Fund, the "Reserve Funds"), and the minimum amount required to remain on deposit in the Series 2019 Reserve Fund shall be and remain at \$167,452.50 (the "Required Reserve Fund Balance"). The Required Reserve Fund Balance allocable to the Bonds is equal, as of the date of calculation, to the least of (i) ten percent of the principal amount of the Bonds, (ii) the maximum

amount of principal and interest payable on the Bonds in the current or any future fiscal year, or (iii) 125% of the average debt service on the Bonds. Unless otherwise satisfied in adherence to the terms of the next succeeding paragraph, whenever the sum on deposit in the Series 2019 Reserve Fund has been reduced to less than the Required Reserve Fund Balance by the expenditure of all or a portion of such funds in order to prevent or remedy a deficiency in the Sinking Fund, there shall be deposited into the Series 2019 Reserve Fund in each month an amount equal to twenty-five percent (25%) of the amount required by this Resolution to be deposited into the Sinking Fund in such month. Such payments shall continue until such time as the sum on deposit in the Series 2019 Reserve Fund shall be at least equal to the Required Reserve Fund Balance.

In lieu of maintaining and depositing moneys in the Series 2019 Reserve Fund, the Issuer may hold in deposit in the Series 2019 Reserve Fund a letter of credit issued by a domestic or foreign bank or a debt service reserve fund insurance policy issued by a bond insurance company, in an amount equal to the Required Reserve Fund Balance, such bank or bond insurance company, as the case may be, having a credit rating at the time of such delivery in one of the two highest rating categories by Moody's or S&P.

All money credited to the Series 2019 Reserve Fund shall be used and is hereby pledged for the payment of the principal of and interest on the Bonds, and Parity Obligations which are secured by the Series 2019 Reserve Fund whenever for any reason the funds on deposit in the Sinking Fund are insufficient to pay such principal and interest when due. If and to whatever extent Parity Obligations shall be issued under the conditions set forth in this resolution, provision shall be made to create and maintain a reasonable reserve therefor, if so required by the purchaser of such Parity Obligations at the time of their issuance.

C. Improvement Fund. The provisions in and by the Outstanding Bond Resolutions, whereby there is to be maintained a separate and special fund known as the Improvement Fund providing for a balance of \$100,000 (the "Required Improvement Fund Balance") to be used for the purposes and with the priorities specified in the Outstanding Bond Resolutions and as hereinafter set out, are all hereby ratified and confirmed. The Required Improvement Fund Balance shall remain at \$100,000, and such funds shall be maintained on deposit in the Improvement Fund until such time as all of the Outstanding Bonds and the Bonds have been paid in full, both principal and interest, or provision for such payment has been made. Whenever the sum on deposit in the Improvement Fund has been reduced to less than the Required Improvement Fund Balance by the expenditure of all or a portion of such funds for any of the permitted purposes, monthly payments of \$2,500 shall be deposited into such Improvement Fund from the Net Revenues remaining after first making the required deposits into the Sinking Fund and the Reserve Fund, and after the Reserve Fund contains the Required Reserve Fund Balance, until the sum on deposit in the Improvement Fund has been restored to the Required Improvement Fund Balance. From and after the issuance of the Bonds and throughout the time any of the Bonds, the Outstanding Bonds or any Parity Obligations are outstanding, money on deposit in the Improvement Fund not otherwise specially limited by other provisions contained herein or in Outstanding Bond Resolutions, shall be used solely and only for the following purposes and with the following priorities:

First, if for any reason there exists a deficiency in the required balance in the Sinking Fund and provided sufficient amounts are not available in the Revenue Fund to pay such deficiency, there shall be paid into the Sinking Fund an amount equal to the deficiency from the amounts on deposit in the Improvement Fund.

Second, said money shall be transferred and credited to the Reserve Fund whenever any deficiency may exist in the Reserve Fund.

Third, not exceeding one half (1/2) of the amount required to be paid into the Improvement Fund each month may be pledged, set aside, used and applied to the payment of principal of and interest on subordinate revenue bonds issued to pay the cost of making necessary improvements and extensions to the Utility, provided there has first been procured and filed with the City the written opinion of a reputable consulting engineer employed by the City that the proposed improvements and extensions are required to insure the continued efficient and successful operation of the Utility.

Fourth, to pay for the cost of capital improvements and extensions to the Utility provided, however, that prior to the expenditure no deficiency exists in the amounts required to be paid into the Sinking Fund and the Reserve Fund, and there has first been procured and placed on file with the City the written opinion of a reputable consulting engineer employed by the City that the proposed capital improvements and extensions are required to insure the continued efficient and successful operation of the Utility.

D. Surplus Fund. There shall continue to be maintained a special fund to be known and designated as the Surplus Fund into which there shall be set apart and paid all of the Net Revenues remaining after first making any required payments into the Sinking Fund, the Reserve Fund and the Improvement Fund and after the Reserve Fund and the Improvement Fund each contain the required balances, and. All money credited to the Surplus Fund shall be transferred and credited to the Sinking Fund whenever necessary to prevent or remedy a default in the payment of the principal of or interest on the Bonds, the Outstanding Bonds and any Parity Obligations or shall be transferred and credited to the Reserve Fund whenever any deficiency may exist in the Reserve Fund or shall be transferred and credited to the Improvement Fund whenever any deficiency may exist in the Improvement Fund.

As long as the Sinking Fund, the Reserve Fund and the Improvement Fund have the full amounts required to be deposited therein by this resolution, any balance in the Surplus Fund may be made available to the City as the City Council, or such other duly constituted body as may then be charged with the operation of the Utility, may from time to time direct.

Section 11. All of such payments required to be made into any fund created or to be maintained under the terms of this resolution shall be made in equal monthly installments as hereinbefore provided on the first day of each month, except that when the first day of any month shall be a Sunday or legal holiday, then such payments shall be made on the next succeeding secular day, and all money held in any fund created or to be maintained under the terms of this

resolution shall be deposited in lawful depositories of the City or invested in accordance with Chapters 12B and 12C of the Code of Iowa and continuously held and secured as provided by the laws of the State of Iowa relating to the depositing, securing, holding and investing of public funds. All interest received by the City as a result of investments under this section shall be deposited in or transferred to the Sinking Fund and used solely and only for the purposes specified herein for such fund.

Section 12. The City hereby covenants and agrees with the owner or owners of the Bonds, the Outstanding Bonds and any Parity Obligations, or any of them, that may be outstanding from time to time, that it will faithfully and punctually perform all duties with reference to the Utility required and provided by the Constitution and laws of the State of Iowa, that it will segregate the Gross Revenues of the Utility and make application thereof in accordance with the provisions of this resolution and that it will not sell, lease or in any manner dispose of the Utility or any part thereof, including any and all extensions and additions that may be made thereto, until all of the Bonds, the Outstanding Bonds and any Parity Obligations have been paid in full, both principal and interest, or unless and until provision shall have been made for the payment thereof in full, both principal and interest; provided, however, that the City may dispose of any property which in the judgment of the City Council, or the duly constituted body as may then be charged with the operation of the Utility, is no longer useful or profitable in the operation of the Utility nor essential to the continued operation thereof and when the sale thereof will not operate to reduce the revenues to be derived from the operation of the Utility.

Section 13. Upon a breach or default of a term of the Bonds, the Outstanding Bonds or any Parity Obligations and this resolution, a proceeding may be brought in law or in equity by suit, action or mandamus to enforce and compel performance of the duties required under the terms of this resolution and Division V of Chapter 384 of the Code of Iowa or an action may be brought to obtain the appointment of a receiver to take possession of and operate the Utility and to perform the duties required by this resolution and Division V of Chapter 384 of the Code of Iowa.

Section 14. The Bonds, the Outstanding Bonds or any Parity Obligations shall not be entitled to priority or preference one over the other in the application of the Net Revenues of the Utility, regardless of the time or times of the issuance thereof, it being the intention of the City that there shall be no priority among the Bonds, the Outstanding Bonds or Parity Obligations, regardless of the fact that they may have been actually issued and delivered at different times. The City hereby covenants and agrees that so long as any of the Bonds, the Outstanding Bonds or any Parity Obligations are outstanding and unpaid, no other bonds or obligations payable from the Net Revenues of the Utility will be issued except upon the basis of such bonds or obligations being subject to the priority and security for payment of the Bonds, the Outstanding Bonds or any Parity Obligations then outstanding; provided, however, that the City reserves the right and privilege of issuing Parity Obligations in order to pay the cost of improvements and extensions to the Utility or for refunding any bonds or obligations payable from the Net Revenues of the Utility, but only if the officially reported Net Revenues of the Utility for the last preceding fiscal year prior to the issuance of such Parity Obligations (with adjustments as hereinafter provided) were equal to at least 125% of the maximum amount of principal and interest that will become due in any subsequent year during the life of the Bonds for the Bonds, the Outstanding Bonds

and any Parity Obligations then outstanding and the Parity Obligations then proposed to be issued.

The amount of Gross Revenues of the Utility may be adjusted for the purpose of the foregoing computations by an independent consulting engineer or, after the Series 2015 Bonds are no longer outstanding, a municipal financial advisor, in either case, not a regular employee of the City, so as to reflect any revision in the schedule of rates and charges being imposed at the time of the issuance of any such Parity Obligations.

Obligations issued to refund the Bonds, the Outstanding Bonds or any Parity Obligations shall not be subject to the foregoing restrictions, provided the Bonds, the Outstanding Bonds or Parity Obligations being refunded mature within three (3) months of the date of such refunding and no other funds are available to pay such maturing Bonds, the Outstanding Bonds or Parity Obligations, or the issuance of the refunding obligations will not cause an increase in the annual debt service requirements during the life of any of the Bonds, the Outstanding Bonds or any Parity Obligations then outstanding which are not being refunded but otherwise any Parity Obligations shall only be issued subject to the restrictions of this resolution.

Section 15. The City agrees that so long as the Bonds, the Outstanding Bonds or any Parity Obligations remain outstanding, it will maintain insurance for the benefit of the owners of the Bonds, the Outstanding Bonds and any Parity Obligations on the insurable portions of the Utility of a kind and in an amount which usually would be carried by private companies or municipalities engaged in a similar type of business. The City will keep proper books of record and account, separate from all other records and accounts, showing the complete and correct entries of all transactions relating to the Utility, and the owners of the Bonds, the Outstanding Bonds or any Parity Obligations shall have the right at all reasonable times to inspect the Utility and all records, accounts and data of the City relating thereto.

Section 16. The provisions of this resolution shall constitute a contract between the City and the owners of the Bonds, and after the issuance of the Bonds, no change, variation or alteration of any kind of the provisions of this resolution shall be made which will adversely affect the owners of the Bonds until all of the Bonds and the interest thereon shall have been paid in full, except as hereinafter provided.

The owners of a majority in principal amount of the Bonds, the Outstanding Bonds and Parity Obligations at any time outstanding (not including in any case any obligations which may be then held or owned by or for the account of the City, but including such obligations as may be issued for the purpose of refunding any of the Bonds, the Outstanding Bonds or any Parity Obligations if such obligations shall not then be owned by the City) shall have the right from time to time to consent to and approve the adoption by the City Council, or such other duly constituted body as may then be charged with the operation of the Utility, of a resolution or resolutions modifying or amending any of the terms or provisions contained in this resolution; provided, however, that this resolution may not be so modified or amended in such manner as to:

- a. make any change in the maturity or redemption terms of the Bonds, the Outstanding Bonds or any Parity Obligations;

- b. make any change in the rate of interest borne by the Bonds, the Outstanding Bonds or any Parity Obligations;
- c. reduce the amount of the principal payable on any Bonds, Outstanding Bonds or Parity Obligations;
- d. modify the terms of payment of principal of or interest on the Bonds, the Outstanding Bonds or any Parity Obligations, or any of them, or impose any conditions with respect to such payment;
- e. affect the rights of the owners of less than all of the Bonds, the Outstanding Bonds or any Parity Obligations then outstanding; or
- f. reduce the percentage of the principal amount of the Bonds, the Outstanding Bonds or any Parity Obligations, the consent of the owners of which shall be required to effect a further modification.

Whenever the City shall propose to amend or modify this resolution under the provisions of this section, it shall (1) prior to the publication of the notice hereinafter provided for in (2), cause notice of the proposed amendment to be mailed to each of the owners of the Bonds, the Outstanding Bonds and Parity Obligations at the addresses appearing on the registration books of the City and also to the Lender, and (2) cause notice of the proposed amendment to be published one time in a newspaper published and/or having a general circulation in the City of Hawarden, Iowa. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory resolution is on file in the office of the City Clerk.

If the owners of at least a majority in aggregate principal amount of the Bonds, the Outstanding Bonds or any Parity Obligations outstanding at the time of the adoption of such amendatory resolution shall have consented to and approved the adoption thereof as herein provided, no owner of any Bonds, the Outstanding Bonds or Parity Obligations shall have any right or interest to object to the adoption of such amendatory resolution or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the City from taking any action pursuant to the provisions thereof.

Any consent given by the owners of a Bond, Outstanding Bond or Parity Obligation pursuant to the provisions of this section shall be irrevocable for a period of six (6) months from the date of such consent and shall be conclusive and binding upon all future owners of the same Bond, Outstanding Bond or Parity Obligation during such period. Such consent may be revoked at any time after six (6) months from the date of such consent by the owner who gave such consent or by a successor in title, but such revocation shall not be effective if the owners of a majority in aggregate principal amount of the Bonds, the Outstanding Bonds and Parity Obligations outstanding as in this section defined shall have, prior to the attempted revocation, consented to and approved the amendatory resolution referred to in such revocation.

The fact and date of the execution of any instrument under the provisions of this section may be proved by the certificate of any officer in any jurisdiction who by the laws thereof is authorized to take acknowledgments of deeds within such jurisdiction, that the persons signing

such instrument acknowledged before him the execution thereof, or may be proved by an affidavit of a witness to such execution sworn to before such officer.

Section 17. It is the intention of the City that interest on the Bonds be and remain excluded from gross income for federal income tax purposes pursuant to the appropriate provisions of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations in effect with respect thereto (all of the foregoing herein referred to as the “Internal Revenue Code”). In furtherance thereof the City covenants to comply with the provisions of the Internal Revenue Code as they may from time to time be in effect or amended and further covenants to comply with applicable future laws, regulations, published rulings and court decisions as may be necessary to insure that the interest on the Bonds will remain excluded from gross income for federal income tax purposes. Any and all of the officers of the City are hereby authorized and directed to take any and all actions as may be necessary to comply with the covenants herein contained.

The City hereby designates the Bonds as “Qualified Tax Exempt Obligations” as that term is used in Section 265(b)(3)(B) of the Internal Revenue Code.

Section 18. The Securities and Exchange Commission (the “SEC”) has promulgated certain amendments to Rule 15c2-12 under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (the “Rule”) that make it unlawful for an underwriter to participate in the primary offering of municipal securities in a principal amount of \$1,000,000 or more unless, before submitting a bid or entering into a purchase contract for such securities, an underwriter has reasonably determined that the issuer or an obligated person has undertaken in writing for the benefit of the holders of such securities to provide certain disclosure information to prescribed information repositories on a continuing basis so long as such securities are outstanding.

On the date of issuance and delivery of the Bonds, the City will execute and deliver a Continuing Disclosure Certificate pursuant to which the City will undertake to comply with the Rule. The City covenants and agrees that it will comply with and carry out the provisions of the Continuing Disclosure Certificate. Any and all of the officers of the City are hereby authorized and directed to take any and all actions as may be necessary to comply with the Rule and the Continuing Disclosure Certificate.

Section 19. Provisions Related to Bond Insurance. The following provisions shall govern, notwithstanding anything to the contrary set forth in this resolution.

1) Notice and Other Information to be given to BAM. The Issuer will provide BAM with all notices and other information it is obligated to provide (i) under its Continuing Disclosure Agreement and (ii) to the holders of Insured Obligations or the Trustee under the Security Documents.

The notice address of BAM is: Build America Mutual Assurance Company, 200 Liberty Street, 27th Floor, New York, NY 10281, Attention: Surveillance, Re: Policy No._____, Telephone: (212) 235-2500, Telecopier: (212) 235-1542, Email: notices@buildamerica.com. In each case in which notice or other communication refers to an event of default or a claim on the Policy, then a copy of such notice or other communication shall also be sent to the attention

of the General Counsel at the same address and at claims@buildamerica.com or at Telecopier: (212) 235-5214 and shall be marked to indicate "URGENT MATERIAL ENCLOSED."

2) Defeasance. The investments in the defeasance escrow relating to Insured Obligations shall be limited to non-callable, direct obligations of the United States of America and securities fully and unconditionally guaranteed as to the timely payment of principal and interest by the United States of America, or as otherwise maybe authorized under State law and approved by BAM.

At least (three) 3 Business Days prior to any defeasance with respect to the Insured Obligations, the Issuer shall deliver to BAM draft copies of an escrow agreement, an opinion of bond counsel regarding the validity and enforceability of the escrow agreement and the defeasance of the Insured Obligations, a verification report (a "Verification Report") prepared by a nationally recognized independent financial analyst or firm of certified public accountants regarding the sufficiency of the escrow fund. Such opinion and Verification Report shall be addressed to BAM and shall be in form and substance satisfactory to BAM. In addition, the escrow agreement shall provide that:

a) Any substitution of securities following the execution and delivery of the escrow agreement shall require the delivery of a Verification Report, an opinion of bond counsel that such substitution will not adversely affect the exclusion (if interest on the Insured Obligations is excludable) from gross income of the holders of the Insured Obligations of the interest on the Insured Obligations for federal income tax purposes and the prior written consent of BAM, which consent will not be unreasonably withheld.

b) The Issuer will not exercise any prior optional redemption of Insured Obligations secured by the escrow agreement or any other redemption other than mandatory sinking fund redemptions unless (i) the right to make any such redemption has been expressly reserved in the escrow agreement and such reservation has been disclosed in detail in the official statement for the refunding bonds, and (ii) as a condition to any such redemption there shall be provided to BAM a Verification Report as to the sufficiency of escrow receipts without reinvestment to meet the escrow requirements remaining following any such redemption.

c) The Issuer shall not amend the escrow agreement or enter into a forward purchase agreement or other agreement with respect to rights in the escrow without the prior written consent of BAM.

3) Trustee and Paying Agent.

a) BAM shall receive prior written notice of any name change of the trustee (the "Trustee") or, if applicable, the paying agent (the "Paying Agent") for the Insured Obligations or the resignation or removal of the Trustee or, if applicable, the Paying Agent. Any Trustee must be (A) a national banking association that is supervised by the Office of the Comptroller of the Currency and has at least \$250 million of assets, (B) a state-chartered commercial bank that is a member of the Federal Reserve System and has at least \$1 billion of assets, or (C) otherwise approved by BAM in writing.

b) No removal, resignation or termination of the Trustee or, if applicable, the Paying Agent shall take effect until a successor, meeting the requirements above or acceptable to BAM, shall be qualified and appointed.

4) Amendments, Supplements and Consents. BAM's prior written consent is required for all amendments and supplements to the Security Documents, with the exceptions noted below. The Issuer shall send copies of any such amendments or supplements to BAM and the rating agencies which have assigned a rating to the Insured Obligations.

a) *Consent of BAM*. Any amendments or supplements to the Security Documents shall require the prior written consent of BAM with the exception of amendments or supplements:

i. To cure any ambiguity or formal defect or omissions or to correct any inconsistent provisions in the transaction documents or in any supplement thereto, or

ii. To grant or confer upon the holders of the Insured Obligations any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the holders of the Insured Obligations, or

iii. To add to the conditions, limitations and restrictions on the issuance of bonds or other obligations under the provisions of the Security Documents other conditions, limitations and restrictions thereafter to be observed, or

iv. To add to the covenants and agreements of the Issuer in the Security Documents other covenants and agreements thereafter to be observed by the Issuer or to surrender any right or power therein reserved to or conferred upon the Issuer.

v. To issue additional parity debt in accordance with the requirements set forth in the Security Documents (unless otherwise specified herein).

b) *Consent of BAM in Addition to Bondholder Consent*. Any amendment, supplement, modification to, or waiver of, any of the Security Documents that requires the consent of holders of the Insured Obligations or adversely affects the rights or interests of BAM shall be subject to the prior written consent of BAM.

c) *Insolvency*. Any reorganization or liquidation plan with respect to the Issuer must be acceptable to BAM. The Trustee and each owner of the Insured Obligations hereby appoint BAM as their agent and attorney-in-fact with respect to the Insured Obligations and agree that BAM may at any time during the continuation of any proceeding by or against the Issuer under the United States Bankruptcy Code or any other applicable bankruptcy, insolvency, receivership, rehabilitation or similar law (an "Insolvency Proceeding") direct all matters relating to such Insolvency Proceeding, including without limitation, (A) all matters relating to any claim or enforcement proceeding in connection with an Insolvency Proceeding (a "Claim"), (B) the direction of any appeal of any order relating to any Claim, (C) the posting of any surety, supersedeas or performance bond pending any such appeal, and (D) the right to vote to accept or reject any plan of adjustment. In addition, the Trustee and each owner of the Insured Obligations delegate and assign to BAM, to the fullest extent permitted by law, the rights of the Trustee and

each owner of the Insured Obligations with respect to the Insured Obligations in the conduct of any Insolvency Proceeding, including, without limitation, all rights of any party to an adversary proceeding or action with respect to any court order issued in connection with any such Insolvency Proceeding.

d) *Control by BAM Upon Default.* Anything in the Security Documents to the contrary notwithstanding, upon the occurrence and continuance of a default or an event of default, BAM shall be entitled to control and direct the enforcement of all rights and remedies granted to the holders of the Insured Obligations or the Trustee or Paying Agent for the benefit of the holders of the Insured Obligations under any Security Document. No default or event of default may be waived without BAM's written consent.

e) *BAM as Owner.* Upon the occurrence and continuance of a default or an event of default, BAM shall be deemed to be the sole owner of the Insured Obligations for all purposes under the Security Documents, including, without limitations, for purposes of exercising remedies and approving amendments.

f) *Consent of BAM for acceleration.* BAM's prior written consent is required as a condition precedent to and in all instances of acceleration.

g) *Grace Period for Payment Defaults.* No grace period shall be permitted for payment defaults on the Insured Obligations. No grace period for a covenant default shall exceed 30 days without the prior written consent of BAM.

h) *Special Provisions for Insurer Default.* If an Insurer Default shall occur and be continuing, then, notwithstanding anything in paragraphs 4(a)-(e) above to the contrary, (1) if at any time prior to or following an Insurer Default, BAM has made payment under the Policy, to the extent of such payment BAM shall be treated like any other holder of the Insured Obligations for all purposes, including giving of consents, and (2) if BAM has not made any payment under the Policy, BAM shall have no further consent rights until the particular Insurer Default is no longer continuing or BAM makes a payment under the Policy, in which event, the foregoing clause (1) shall control. For purposes of this paragraph, "Insurer Default" means: (A) BAM has failed to make any payment under the Policy when due and owing in accordance with its terms; or (B) BAM shall (i) voluntarily commence any proceeding or file any petition seeking relief under the United States Bankruptcy Code or any other Federal, state or foreign bankruptcy, insolvency or similar law, (ii) consent to the institution of or fail to controvert in a timely and appropriate manner, any such proceeding or the filing of any such petition, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator or similar official for such party or for a substantial part of its property, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take action for the purpose of effecting any of the foregoing; or (C) any state or federal agency or instrumentality shall order the suspension of payments on the Policy or shall obtain an order or grant approval for the rehabilitation, liquidation, conservation or dissolution of BAM (including without limitation under the New York Insurance Law).

5) Loan/Lease/Financing Agreement.

a) The security for the Insured Obligations shall include a pledge and assignment of any agreement with any underlying obligor that is a source of payment for the Insured Obligations (a “Financing Agreement”) and a default under any Financing Agreement shall constitute an Event of Default under the Security Documents. In accordance with the foregoing, any such Financing Agreement is hereby pledged and assigned to the Trustee for the benefit of the holders of the Insured Obligations.

b) Any payments by the Obligor under the Financing Agreement that will be applied to the payment of debt service on the Insured Obligations shall be made directly to the Trustee at least fifteen (15) days prior to each debt service payment date for the Insured Obligations.

6) BAM As Third Party Beneficiary. BAM is recognized as and shall be deemed to be a third party beneficiary of the Security Documents and may enforce the provisions of the Security Documents as if it were a party thereto.

7) Payment Procedure Under the Policy.

In the event that principal and/or interest due on the Insured Obligations shall be paid by BAM pursuant to the Policy, the Insured Obligations shall remain outstanding for all purposes, not be defeased or otherwise satisfied and not be considered paid by the Issuer, the assignment and pledge of the trust estate and all covenants, agreements and other obligations of the Issuer to the registered owners shall continue to exist and shall run to the benefit of BAM, and BAM shall be subrogated to the rights of such registered owners.

In the event that on the second (2nd) business day prior to any payment date on the Insured Obligations, the Paying Agent or Trustee has not received sufficient moneys to pay all principal of and interest on the Insured Obligations due on such payment date, the Paying Agent or Trustee shall immediately notify BAM or its designee on the same business day by telephone or electronic mail, of the amount of the deficiency. If any deficiency is made up in whole or in part prior to or on the payment date, the Paying Agent or Trustee shall so notify BAM or its designee.

In addition, if the Paying Agent or Trustee has notice that any holder of the Insured Obligations has been required to disgorge payments of principal of or interest on the Insured Obligations pursuant to a final, non-appealable order by a court of competent jurisdiction that such payment constitutes an avoidable preference to such holder within the meaning of any applicable bankruptcy law, then the Paying Agent or Trustee shall notify BAM or its designee of such fact by telephone or electronic mail, or by overnight or other delivery service as to which a delivery receipt is signed by a person authorized to accept delivery on behalf of BAM.

The Paying Agent or Trustee shall irrevocably be designated, appointed, directed and authorized to act as attorney-in-fact for holders of the Insured Obligations as follows:

a) If there is a deficiency in amounts required to pay interest and/or principal on the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holders of the Insured Obligations in any legal proceeding related to the payment and assignment to BAM of the claims for interest on the Insured Obligations, (ii) receive as designee of the

respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment from BAM with respect to the claims for interest so assigned, (iii) segregate all such payments in a separate account (the "BAM Policy Payment Account") to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such respective holders; and

b) If there is a deficiency in amounts required to pay principal of the Insured Obligations, the Paying Agent or Trustee shall (i) execute and deliver to BAM, in form satisfactory to BAM, an instrument appointing BAM as agent and attorney-in-fact for such holder of the Insured Obligations in any legal proceeding related to the payment of such principal and an assignment to BAM of the Insured Obligations surrendered to BAM, (ii) receive as designee of the respective holders (and not as Paying Agent) in accordance with the tenor of the Policy payment therefore from BAM, (iii) segregate all such payments in the BAM Policy Payment Account to only be used to make scheduled payments of principal of and interest on the Insured Obligation, and (iv) disburse the same to such holders.

The Trustee shall designate any portion of payment of principal on Insured Obligations paid by BAM, whether by virtue of mandatory sinking fund redemption, maturity or other advancement of maturity, on its books as a reduction in the principal amount of Insured Obligations registered to the then current holder, whether DTC or its nominee or otherwise, and shall issue a replacement Insured Obligation to BAM, registered in the name directed by BAM, in a principal amount equal to the amount of principal so paid (without regard to authorized denominations); provided that the Trustee's failure to so designate any payment or issue any replacement Insured Obligation shall have no effect on the amount of principal or interest payable by the Issuer on any Insured Obligation or the subrogation or assignment rights of BAM.

Payments with respect to claims for interest on and principal of Insured Obligations disbursed by the Paying Agent or Trustee from proceeds of the Policy shall not be considered to discharge the obligation of the Issuer with respect to such Insured Obligations, and BAM shall become the owner of such unpaid Insured Obligations and claims for the interest in accordance with the tenor of the assignment made to it under the provisions of the preceding paragraphs or otherwise. The Security Documents shall not be discharged or terminated unless all amounts due or to become due to BAM have been paid in full or duly provided for.

Irrespective of whether any such assignment is executed and delivered, the Issuer, and the Paying Agent and Trustee agree for the benefit of BAM that:

a) They recognize that to the extent BAM makes payments directly or indirectly (e.g., by paying through the Paying Agent or Trustee), on account of principal of or interest on the Insured Obligations, BAM will be subrogated to the rights of such holders to receive the amount of such principal and interest from the Issuer, with interest thereon, as provided and solely from the sources stated in the Security Documents and the Insured Obligations; and

b) They will accordingly pay to BAM the amount of such principal and interest, with interest thereon as provided in the transaction documents and the Insured Obligations, but only from the sources and in the manner provided therein for the payment of principal of and interest

on the Insured Obligations to holders, and will otherwise treat BAM as the owner of such rights to the amount of such principal and interest.

8) Additional Payments. The Issuer agrees unconditionally that it will pay or reimburse BAM on demand any and all reasonable charges, fees, costs, losses, liabilities and expenses that BAM may pay or incur, including, but not limited to, fees and expenses of BAM's agents, attorneys, accountants, consultants, appraisers and auditors and reasonable costs of investigations, in connection with the administration (including waivers and consents, if any), enforcement, defense, exercise or preservation of any rights and remedies in respect of the Security Documents ("Administrative Costs"). For purposes of the foregoing, costs and expenses shall include a reasonable allocation of compensation and overhead attributable to the time of employees of BAM spent in connection with the actions described in the preceding sentence. The Issuer agrees that failure to pay any Administrative Costs on a timely basis will result in the accrual of interest on the unpaid amount at the Late Payment Rate, compounded semi-annually, from the date that payment is first due to BAM until the date BAM is paid in full.

Notwithstanding anything herein to the contrary, the Issuer agrees to pay to BAM (i) a sum equal to the total of all amounts paid by BAM under the Policy ("BAM Policy Payment"); and (ii) interest on such BAM Policy Payments from the date paid by BAM until payment thereof in full by the Issuer, payable to BAM at the Late Payment Rate per annum (collectively, "BAM Reimbursement Amounts") compounded semi-annually. Notwithstanding anything to the contrary, including without limitation the post default application of revenue provisions, BAM Reimbursement Amounts shall be, and the Issuer hereby covenants and agrees that the BAM Reimbursement Amounts are, payable from and secured by a lien on and pledge of the same revenues and other collateral pledged to the Insured Obligations on a parity with debt service due on the Insured Obligations.

9) Debt Service Reserve Fund. The prior written consent of BAM shall be a condition precedent to the deposit of any credit instrument provided in lieu of a cash deposit into the Debt Service Reserve Fund, if any. Amounts on deposit in the Debt Service Reserve Fund shall be applied solely to the payment of debt service due on the Insured Obligations.

10) Exercise of Rights by BAM. The rights granted to BAM under the Security Documents to request, consent to or direct any action are rights granted to BAM in consideration of its issuance of the Policy. Any exercise by BAM of such rights is merely an exercise of the BAM's contractual rights and shall not be construed or deemed to be taken for the benefit, or on behalf, of the holders of the Insured Obligations and such action does not evidence any position of BAM, affirmative or negative, as to whether the consent of the holders of the Insured Obligations or any other person is required in addition to the consent of BAM.

11) BAM shall be entitled to pay principal or interest on the Insured Obligations that shall become Due for Payment but shall be unpaid by reason of Nonpayment by the Issuer (as such terms are defined in the Policy) and any amounts due on the Insured Obligations as a result of acceleration of the maturity thereof in accordance with the Security Documents, whether or not BAM has received a claim upon the Policy.

12) So long as the Insured Obligations are outstanding or any amounts are due and payable to BAM, the Issuer shall not sell, lease, transfer, encumber or otherwise dispose of the Issuer's Municipal Electric Utility System or any material portion thereof, except upon obtaining the prior written consent of BAM.

13) No contract shall be entered into or any action taken by which the rights of BAM or security for or source of payment of the Insured Obligations may be impaired or prejudiced in any material respect except upon obtaining the prior written consent of BAM.

14) If an event of default occurs under any agreement pursuant to which any Obligation of the Issuer has been incurred or issued and that permits the holder of such Obligation or trustee to accelerate the Obligation or otherwise exercise rights or remedies that are adverse to the interest of the holders of the Insured Obligations or BAM, as BAM may determine in its sole discretion, then an event of default shall be deemed to have occurred under this resolution and the related Security Documents for which BAM or the Trustee, at the direction of BAM, shall be entitled to exercise all available remedies under the Security Documents, at law and in equity. For purposes of the foregoing "Obligation" shall mean any bonds, loans, certificates, installment or lease payments or similar obligations that are payable and/or secured on a parity or subordinate basis to the Insured Obligations.

15) Definitions.

“BAM” shall mean Build America Mutual Assurance Company, or any successor thereto.

“Insured Obligations” shall mean the City of Hawarden, Iowa Electric Revenue Bonds, Series 2019.

“Issuer” shall mean the City of Hawarden, Iowa.

“Late Payment Rate” means the lesser of (a) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank, N.A., at its principal office in The City of New York, New York, as its prime or base lending rate (“Prime Rate”) (any change in such Prime Rate to be effective on the date such change is announced by JPMorgan Chase Bank, N.A.) plus 3%, and (ii) the then applicable highest rate of interest on the Insured Obligations and (b) the maximum rate permissible under applicable usury or similar laws limiting interest rates. In the event JPMorgan Chase Bank, N.A., ceases to announce its Prime Rate, the Prime Rate shall be the prime or base lending rate of such other bank, banking association or trust company as BAM, in its sole and absolute discretion, shall designate. Interest at the Late Payment Rate on any amount owing to BAM shall be computed on the basis of the actual number of days elapsed in a year of 360 days.

“Policy” shall mean the Municipal Bond Insurance Policy issued by BAM that guarantees the scheduled payment of principal of and interest on the Insured Obligations when due.

“Security Documents” shall mean the resolution, trust agreement, indenture, ordinance, loan agreement, lease agreement, bond, note, certificate and/or any additional or supplemental document executed in connection with the Insured Obligations.

Section 20. Provisions related to Municipal Bond Debt Service Reserve Insurance Policy. The following provisions shall govern, notwithstanding anything to the contrary set forth herein.

- (a) The Issuer shall repay any draws under the Municipal Bond Debt Service Reserve Insurance Policy (the “Reserve Policy”) and pay all related reasonable expenses incurred by BAM (the “Bond Insurer”). Interest shall accrue and be payable on such draws and expenses from the date of payment by the Bond Insurer at the Late Payment Rate. “Late Payment Rate” means the lesser of (A) the greater of (i) the per annum rate of interest, publicly announced from time to time by JPMorgan Chase Bank at its principal office in the City of New York, as its prime or base lending rate (“Prime Rate”) (any change in such Prime Rate to be effective on the date such changes are announced by JPMorgan Chase Bank) plus 3%, and (ii) the then applicable highest rate of interest on the Bonds, and (B) the maximum rate permissible under applicable usury or similar laws limiting interest rates. The Late Payment Rate shall be computed on the basis of the actual number of days elapsed over a year of 360 days. In the event JPMorgan Chase Bank ceases to announce its Prime Rate publicly, Prime Rate shall be the publicly announced prime or base lending rate of such bank, banking association or trust company bank as the Bond Insurer in its sole and absolute discretion shall specify.

Repayment of draws and payment of expenses and accrued interest thereon at the Late Payment Rate (collectively, the “Policy Costs”) shall commence in the first month following each draw, and each such monthly payment shall be in an amount at least equal to 1/12 of the aggregate of Policy Costs related to such draw.

Amounts in respect of Policy Costs paid to the Bond Insurer shall be credited first to interest due, then to the expenses due and then to principal due. As and to the extent that payments are made to the Bond Insurer on account of principal due, the coverage under the Reserve Policy will be increased by a like amount, subject to the terms of the Reserve Policy.

All cash and investments in the Debt Service Reserve Fund established for the Bonds shall be transferred to the Debt Service Fund for payment of the debt service on the Bonds before any drawing may be made on the Reserve Policy or any other Reserve Fund Credit Instrument in lieu of cash.

Payment of any Policy Cost shall be made prior to replenishment of any cash amounts. Draws on all Reserve Fund Credit Instruments (including the Reserve Policy) on which there is available coverage shall be made on a pro-rata basis (calculated by reference to the coverage then available thereunder) after applying all available cash and investments in the Debt Service Reserve Fund. Payment of

Policy Costs and reimbursement of amounts with respect to other Reserve Fund Credit Instruments shall be made on a pro-rata basis prior to replenishment of any cash drawn from the Debt Service Reserve Fund. For the avoidance of doubt, “available coverage” means the coverage then available for disbursement pursuant to the terms of the applicable alternative credit instrument without regard to the legal or financial ability or willingness of the provider of such instrument to honor a claim or draw thereon or the failure of such provider to honor any such claim or draw.

- (b) Draws under the Reserve Policy may only be used to make payments on Bonds insured by the Bond Insurer.
- (c) If the Issuer shall fail to pay any Policy Costs in accordance with the requirements of paragraph (a) above, the Bond Insurer shall be entitled to exercise any and all legal and equitable remedies available to it, including those provided under this Indenture other than (i) acceleration of the maturity of the Bonds, or (ii) remedies which would adversely affect owners of the Bonds.
- (d) This Indenture shall not be discharged until all Policy Costs owing to the Bond Insurer shall have been paid in full. The Issuer’s obligation to pay such amount shall expressly survive payment in full of the Bonds.
- (e) The Trustee shall ascertain the necessity for a claim upon the Reserve Policy in accordance with the provisions of paragraph (a) hereof and provide notice to the Bond Insurer at least three business days prior to each date upon which interest or principal is due on the Bonds.
- (f) The Reserve Policy shall expire on the earlier of the date the Bonds are no longer outstanding and the final maturity date of the Bonds.
- (g) Policy Costs due and owing shall be included in debt service requirements for purposes of calculation of the additional bonds test and the rate covenant in the Authorizing Document [*Loan Agreement*].

Section 21. If any section, paragraph, clause or provision of this resolution shall be held invalid, the invalidity of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

Section 22. All resolutions and orders or parts thereof in conflict with the provisions of this resolution are, to the extent of such conflict, hereby repealed.

Section 23. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

Passed and approved August 28, 2019.

Mayor

Attest:

City Clerk

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On motion and vote, the meeting adjourned.

Mayor

Attest:

City Clerk

ORDINANCE NO. 714

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HAWARDEN, IOWA, 2011, BY AMENDING PROVISIONS PERTAINING TO CONFLICT OF INTEREST

Be It Enacted by the City Council of the City of Hawarden, Iowa:

SECTION 1. SUBSECTIONS MODIFIED. Subsections 10, 11 and 12 of Section 5.07 of the Code of Ordinances of the City of Hawarden, Iowa, 2011, are repealed and the following adopted in lieu thereof:

10. Cumulative Purchases. Contracts not otherwise permitted by this section, for the purchase of goods or services that benefit a City officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of \$6,000.00 in a fiscal year.

(Code of Iowa, Sec. 362.5[3j])

11. Franchise Agreements. Franchise agreements between the City and a utility and contracts entered into by the City for the provision of essential City utility services.

(Code of Iowa, Sec. 362.5[3k])

12. Third Party Contracts. A contract that is a bond, note or other obligation of the City and the contract is not acquired directly from the City but is acquired in a transaction with a third party who may or may not be the original underwriter, purchaser, or obligee of the contract.

(Code of Iowa, Sec. 362.5[3l])

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved by the Council on the 11th day of September 2019.

Ricard Porter, Mayor

ATTEST:

Michael DeBruin, City Clerk

First Reading: August 14, 2019

Second Reading: August 28, 2019

Third Reading: September 11, 2019

I certify that the foregoing was published as Ordinance No. 714 on the 12th day of September 2019.

Michael DeBruin, City Clerk

ORDINANCE NO. 715

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HAWARDEN, IOWA, 2011, BY AMENDING PROVISIONS PERTAINING TO SOLID WASTE CONTROL

Be It Enacted by the City Council of the City of Hawarden, Iowa:

SECTION 1. SUBSECTIONS MODIFIED. Subsections 13 and 14 of Section 105.02 of the Code of Ordinances of the City of Hawarden, Iowa, 2011, are repealed and the following adopted in lieu thereof:

13. “Sanitary disposal project” means all facilities and appurtenances (including all real and personal property connected with such facilities) that are acquired, purchased, constructed, reconstructed, equipped, improved, extended, maintained, or operated to facilitate the final disposition of solid waste without creating a significant hazard to the public health or safety, and which are approved by the Director of the State Department of Natural Resources. “Sanitary disposal project” does not include a pyrolysis or gasification facility as defined in Section 455B.301 of the *Code of Iowa*.
(*Code of Iowa, Sec. 455B.301*)

14. “Solid waste” means garbage, refuse, rubbish, and other similar discarded solid or semisolid materials, including but not limited to such materials resulting from industrial, commercial, agricultural, and domestic activities. Solid waste may include vehicles, as defined by Section 321.1 of the *Code of Iowa*. Solid waste does not include any of the following:
(*Code of Iowa, Sec. 455B.301*)

- A. Hazardous waste regulated under the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6921-6934.
- B. Hazardous waste as defined in Section 455B.411 of the *Code of Iowa*, except to the extent that rules allowing for the disposal of specific wastes have been adopted by the State Environmental Protection Commission.
- C. Source, special nuclear, or by-product material as defined in the Atomic Energy Act of 1954, as amended to January 1, 1979.
- D. Petroleum contaminated soil that has been remediated to acceptable State or federal standards.
- E. Steel slag which is a product resulting from the steel manufacturing process and is managed as an item of value in a controlled manner and not as a discarded material.
- F. Material that is legitimately recycled pursuant to Section 455D.4A of the *Code of Iowa*.
- G. Post-use polymers or recoverable feedstocks that are any of the following:
 - (1) Processed at a pyrolysis or gasification facility.
 - (2) Held at a pyrolysis or gasification facility prior to processing to ensure production is not interrupted.

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and Approved by the Council on the 11th day of September 2019.

Ricard Porter, Mayor

ATTEST:

Michael DeBruin, City Clerk

First Reading: August 14, 2019

Second Reading: August 28, 2019

Third Reading: September 11, 2019

I certify that the foregoing was published as Ordinance No. 715 on the 12th day of September 2019.

Michael DeBruin, City Clerk

ORDINANCE NO. 716

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF HAWARDEN, IOWA, 2011, BY AMENDING PROVISIONS PERTAINING TO OPERATING BUDGET PREPARATION

Be It Enacted by the City Council of the City of Hawarden, Iowa:

SECTION 1. SECTION MODIFIED. Section 7.05 of the Code of Ordinances of the City of Hawarden, Iowa, 2011, is repealed and the following adopted in lieu thereof:

7.05 OPERATING BUDGET PREPARATION. The annual operating budget of the City shall be prepared in accordance with the following:

1. Proposal Prepared. The finance officer is responsible for preparation of the annual budget detail, for review by the Mayor and Council and adoption by the Council in accordance with directives of the Mayor and Council.
2. Boards and Commissions. All boards, commissions, and other administrative agencies of the City that are authorized to prepare and administer budgets must submit their budget proposals to the finance officer for inclusion in the proposed City budget at such time and in such form as required by the Council.
3. Submission to Council. The finance officer shall submit the completed budget proposal to the Council each year at such time as directed by the Council.
4. Resolution Establishing Maximum Property Tax Dollars. The Council shall adopt a resolution establishing the total maximum property tax dollars that may be certified for levy that includes taxes for City government purposes under *Code of Iowa* Section 384.1, for the City's trust and agency fund under *Code of Iowa* Section 384.6, Subsection 1, for the City's emergency fund under *Code of Iowa* Section 384.8, and for the levies authorized under *Code of Iowa* Section 384.12, Subsections 8, 10, 11, 12, 13, 17, and 21, but excluding additions approved at election under *Code of Iowa* Section 384.12, Subsection 19.

(Code of Iowa, Sec. 384.15A)

A. The Council shall set a time and place for a public hearing on the resolution before the date for adoption of the resolution and shall publish notice of the hearing not less than 10 nor more than 20 days prior to the hearing in a newspaper published at least once weekly and having general circulation in the City.

B. If the City has an internet site, the notice shall also be posted and clearly identified on the City's internet site for public viewing beginning on the date of the newspaper publication or public posting, as applicable. Additionally, if the City maintains a social media account on one or more social media applications, the public hearing notice or an electronic link to the public hearing notice shall be posted on each such account on the same day as the publication of the notice. All of the following shall be included in the notice:

- (1) The sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection and the current fiscal year's combined property tax levy rate for such amount that is applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(2) The effective tax rate calculated using the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(3) The sum of the proposed maximum property tax dollars that may be certified for levy for the budget year under the levies specified in this subsection and the proposed combined property tax levy rate for such amount applicable to taxable property in the City other than property used and assessed for agricultural or horticultural purposes.

(4) If the proposed maximum property tax dollars specified under Subparagraph (3) exceed the current fiscal year's actual property tax dollars certified for levy specified in Subparagraph (1), a statement of the major reasons for the increase.

Proof of publication shall be filed with and preserved by the County Auditor. The Department of Management shall prescribe the form for the public hearing notice for cities and the form for the resolution to be adopted by the Council under Paragraph C of this subsection.

C. At the public hearing, the Council shall receive oral or written objections from any resident or property owner of the City. After all objections have been received and considered, the Council may decrease, but not increase, the proposed maximum property tax dollar amount for inclusion in the resolution and shall adopt the resolution and file the resolution with the County Auditor as required under *Code of Iowa* Section 384.16, Subsection 3.

D. If the sum of the maximum property tax dollars for the budget year specified in the resolution under the levies specified in this subsection exceeds 102 percent of the sum of the current fiscal year's actual property taxes certified for levy under the levies specified in this subsection, the Council shall be required to adopt the resolution by a two-thirds majority of the membership of the Council.

E. If the City has an internet site, in addition to filing the resolution with the Auditor under *Code of Iowa* Section 384.16, Subsection 3, the adopted resolution shall be posted and clearly identified on the City's internet site for public viewing within 10 days of approval by the Council. The posted resolution for a budget year shall continue to be accessible for public viewing on the internet site along with resolutions posted for all subsequent budget years.

5. Council Review. The Council shall review the proposed budget and may make any adjustments it deems appropriate in the budget before accepting such proposal for publication, hearing, and final adoption.

6. Notice of Hearing. Following, and not until adoption of the resolution required under Subsection 4 of this section, the Council shall set a time and place for public hearing on the budget to be held before March 31 and shall publish notice of the hearing not less than 10 nor more than 20 days before the hearing. A summary of the proposed budget and a description of the procedure for protesting the City budget under Section 384.19 of the *Code of Iowa*, in the form prescribed by the Director of the Department of Management, shall be included in the notice. Proof of publication

of the notice under this subsection and a copy of the resolution adopted under Subsection 4 of this section must be filed with the County Auditor.

(Code of Iowa, Sec. 384.16[3])

7. Copies of Budget on File. Not less than 20 days before the date that the budget must be certified to the County Auditor and not less than 10 days before the public hearing, the Clerk shall make available a sufficient number of copies of the detailed budget to meet the requests of taxpayers and organizations, and have them available for distribution at the offices of the Mayor and Clerk and at the City library.

(Code of Iowa, Sec. 384.16[2])

8. Adoption and Certification. After the hearing, the Council shall adopt, by resolution, a budget for at least the next fiscal year and the Clerk shall certify the necessary tax levy for the next fiscal year to the County Auditor and the County Board of Supervisors. The tax levy certified may be less than, but not more than, the amount estimated in the proposed budget submitted at the final hearing or the applicable amount specified in the resolution adopted under Subsection 4 of this section. Two copies each of the detailed budget as adopted and of the tax certificate must be transmitted to the County Auditor.

(Code of Iowa, Sec. 384.16[5])

SECTION 2. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and Approved by the Council on the 11th day of September 2019.

Ricard Porter, Mayor

ATTEST:

Michael DeBruin, City Clerk

First Reading: August 14, 2019

Second Reading: August 28, 2019

Third Reading: September 11, 2019

I certify that the foregoing was published as Ordinance No. 716 on the 12th day of September 2019.

Michael DeBruin, City Clerk

**HEDGING AGREEMENT BY AND BETWEEN PUBLIC ENERGY
FACILITIES AUTHORITY AND CITY OF HAWARDEN/HAWARDEN MUNICIPAL UTILITIES**

This Hedging Agreement is entered into between Public Energy Facilities Authority (“PEFA”) and City of Hawarden/Hawarden Municipal Utilities (“Participant”) to reflect the terms of fixed price natural gas supply transactions (each, a “Participant Transaction”) to be entered into from time to time between PEFA and Participant in connection with prepaid gas supplies purchased by Participant from PEFA, Inc. under PEFA, Inc.’s gas prepayment transaction with Aron Gas Prepay 1 LLC (“Prepay LLC”).

Participant is a purchaser of prepaid gas from PEFA, Inc. in the prepay transaction between PEFA, Inc. and Prepay LLC under a Gas Supply Agreement dated as of May 1, 2019 between Participant and PEFA, Inc. (the “Supply Agreement”). PEFA has entered into a NAESB Base Contract for the Sale and Purchase of Natural Gas, dated as of August __, 2019, with J. Aron & Company LLC (“Aron”) (The “NAESB Contract”) under which PEFA will enter into the sale transactions (each, an “Aron Transaction”) of certain quantities of gas to Aron at the delivery point under the Supply Agreement at a floating price and will purchase the same quantities of gas from Aron at the same delivery point at a fixed price.

Concurrent with each Aron Transaction related to natural gas to be hedged for Participant, PEFA and Participant will enter into a Participant Transaction hereunder with commercial and other substantive terms that are identical to the Aron Transaction, provided that under such Participant Transaction, Participant will transfer gas at the index price to PEFA and receive gas at the fixed price from PEFA.

Participant may request PEFA to enter into such a Participant Transaction by delivering a request (in the form attached hereto), which request may be delivered by in writing by an email exchange (or other writing) setting forth the volume, term, and ceiling price at which Participant requests such Participant Transaction, and the deadline through which Participant’s request shall remain open. Each such request once sent is irrevocable by Participant unless and until it expires unfilled by the deadline set forth in the request.

PEFA shall use commercially reasonable efforts to enter into an Aron Transaction that complies with the request by Participant and, upon execution thereof, PEFA and Participant will be deemed to have entered into a corresponding Participant Transaction with the commercial terms being identical to commercial terms of the Aron Transaction but with Participant delivering at the index price and PEFA delivering at the fixed price. The other terms of such Participant Transaction shall be identical to terms set forth in the NAESB Contract (the current form of which is attached hereto), provided that (i) references to PEFA in such NAESB Contract shall be deemed to be references to Participant and references to Aron shall be deemed to be references to Aron, and (ii) in addition to the terms therein, the Participant Transaction will be terminated if Aron terminates the corresponding Aron Transaction for any reason and the Participant will be the defaulting party for purposes of such termination. PEFA shall memorialize the terms of such Participant Transaction by written notice sent to Participant by email (or other writing).

Participant acknowledges and agrees that PEFA will be entering into Aron Transactions on behalf of Participant other "Project Participants" (as defined in the Supply Agreement) as part of an overall pricing program (the "Pricing Program"). In order to facilitate such Pricing Program and the credit support required by Aron in connection therewith, Participant hereby assigns to PEFA its right to receive any "Annual Refund" (as defined in the Supply Agreement) that may otherwise due to Participant under the Supply Agreement to the extent that, at the time such Annual Refund would otherwise be paid, any amounts are past due to PEFA from any Project Participant in connection with a Participant Transaction hereunder or a similar transaction with another Project Participant. Participant acknowledges that PEFA may assign the right to this Annual Refund to Aron and agrees, upon request of PEFA or Aron, to issue an irrevocable payment instruction to PEFA, Inc. directing all future Annual Refunds that may otherwise be due to the Participant to be paid to Aron. Further, upon receiving a payment direction letter from Aron, Participant shall direct all payments that would otherwise be made by Participant under each

Participant Transaction directly to Aron, which payment direction may not be revoked without Aron’s express prior written consent.

Participant represents that Clayton Energy is authorized on its behalf to cause Participant to enter into Participant Transactions hereunder and agrees to be bound by any such Participant Transaction requested by Clayton Energy.

By their signatures below, the representatives of Participant and PEFA affirm that they are authorized to enter into this Hedging Agreement and each hedge undertaken pursuant to it.

IN WITNESS WHEREOF, PEFA and Participant have executed this Hedging Agreement effective on August __, 2019, to apply to each hedging request by Participant with respect to volumes purchased by Participant under its Supply Agreement, intending to be fully bound by it.

CITY OF HAWARDEN/

HAWARDEN MUNICIPAL UTILITIES

By _____

Its _____

Date _____

PUBLIC ENERGY FACILITIES AUTHORITY

By _____

Its _____

Date _____

ATTACHMENT A

FORM OF HEDGING REQUEST

_____ is a Project Participant in the natural gas prepayment transaction undertaken by PEFA, Inc. with Aron Gas Prepay 1 LLC, and is a party to a Gas Supply Agreement with PEFA, Inc. dated as of May 1, 2019, and to a Hedging Agreement with Public Energy Facilities Authority ("PEFA") dated July __, 2019.

Pursuant to the Hedging Agreement, _____ requests PEFA to enter into a hedging transaction on its behalf with the following particulars:

Month	Volume (for the Month)(MMBtu)	Fixed Price Ceiling (per MMBtu)
_____	_____	\$_____
_____	_____	\$_____
_____	_____	\$_____

This request shall remain open until the end of the day on _____, 20__, and is irrevocable until that time, and accordingly it may be relied upon by PEFA without qualification or further confirmation.

[NAME OF PROJECT PARTICIPANT]

By _____

Its _____

Date: _____

ATTACHMENT B

**NAESB CONTRACT BETWEEN
PUBLIC ENERGY FACILITIES AUTHORITY
AND J. ARON & COMPANY LLC**

EMAIL: <u>ficc-jaron-natgasops@ny.email.gs.com</u>		EMAIL: _____
<u>200 West Street, New York, NY 10282-2198</u> ATTN: <u>Commodity Operations</u> TEL#: <u>212-357-0326</u> FAX#: <u>212-493-9846</u> EMAIL: <u>jaron@gs.com</u>	▪ CONTRACT AND LEGAL NOTICES	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
<u>200 West Street, New York, NY 10282-2198</u> ATTN: <u>Credit Risk Management - Energy</u> TEL#: <u>212-855-0990</u> FAX#: <u>212-493-0821</u> EMAIL: <u>gs-credit-energy-ny@ny.email.gs.com</u>	▪ CREDIT	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
<u>200 West Street, New York, NY 10282</u> ATTN: <u>Commodity Operations</u> TEL#: <u>212-357-0326</u> FAX#: <u>212-493-9846</u> EMAIL: <u>jaron@gs.com</u>	▪ TRANSACTION CONFIRMATIONS	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
ACCOUNTING INFORMATION		
<u>200 West Street, New York, NY 10282</u> ATTN: <u>Energy Settlements, Manager</u> TEL#: <u>212-357-6450</u> FAX#: <u>212-493-9848</u> EMAIL: <u>ficc-cx-ny@ny.email.gs.com</u>	▪ INVOICES ▪ PAYMENTS ▪ SETTLEMENTS	ATTN: _____ TEL#: _____ FAX#: _____ EMAIL: _____
BANK: <u>CITIBANK, NA</u> ABA: <u>021000089</u> ACCT: <u>09292521</u> OTHER DETAILS: <u>For the account of J. Aron & Co., New York</u>	WIRE TRANSFER NUMBERS (IF APPLICABLE)	BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____
BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____	ACH NUMBERS (IF APPLICABLE)	BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____
ATTN: _____ ADDRESS: _____	CHECKS (IF APPLICABLE)	ATTN: _____ ADDRESS: _____

Section 6 Taxes <input checked="" type="checkbox"/> Buyer Pays At and After Delivery Point (default) OR <input type="checkbox"/> Seller Pays Before and At Delivery Point	OR <input type="checkbox"/> Other Agreement Setoffs Do Not Apply
Section 7.2 Payment Date <input checked="" type="checkbox"/> 25 th Day of Month following Month of delivery (default) OR <input type="checkbox"/> Day of Month following Month of delivery	Section 15.5 New York Choice Of Law
Section 7.2 Method of Payment <input checked="" type="checkbox"/> Wire transfer (default) <input type="checkbox"/> Automated Clearinghouse Credit (ACH) <input type="checkbox"/> Check	Section 15.10 Confidentiality <input checked="" type="checkbox"/> Confidentiality applies (default) [INTERNAL NOTE: This is likely a public document in the hands of PEFA and would be subject to open records disclosure. For that reason, the confidentiality would only realistically apply to J. Aron and we would suggest having it not apply.] OR <input type="checkbox"/> Confidentiality does not apply
Section 7.7 Netting <input checked="" type="checkbox"/> Netting applies (default) OR <input type="checkbox"/> Netting does not apply	
<input checked="" type="checkbox"/> Special Provisions Number of sheets attached: [____] _____ <input type="checkbox"/> Addendum(s): _____	

IN WITNESS WHEREOF, the parties hereto have executed this Base Contract in duplicate.

J. ARON & COMPANY LLC		PUBLIC ENERGY FACILITIES AUTHORITY
By: _____		By: _____

General Terms and Conditions

Base Contract for Sale and Purchase of Natural Gas

SECTION 1. PURPOSE AND PROCEDURES

1.1. These General Terms and Conditions are intended to facilitate purchase and sale transactions of Gas on a Firm or Interruptible basis. "Buyer" refers to the party receiving Gas and "Seller" refers to the party delivering Gas. The entire agreement between the parties shall be the Contract as defined in Section 2.9.

The parties have selected either the "Oral Transaction Procedure" or the "Written Transaction Procedure" as indicated on the Base Contract.

Oral Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Any Gas purchase and sale transaction may be effectuated in an EDI transmission or telephone conversation with the offer and acceptance constituting the agreement of the parties. The parties shall be legally bound from the time they so agree to transaction terms and may each rely thereon. Any such transaction shall be considered a "writing" and to have been "signed". Notwithstanding the foregoing sentence, the parties agree that Confirming Party shall, and the other party may, confirm a telephonic transaction by sending the other party a Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means within three Business Days of a transaction covered by this Section 1.2 (Oral Transaction Procedure) provided that the failure to send a Transaction Confirmation shall not invalidate the oral agreement of the parties. Confirming Party adopts its confirming letterhead, or the like, as its signature on any Transaction Confirmation as the identification and authentication of Confirming Party. If the Transaction Confirmation contains any provisions other than those relating to the commercial terms of the transaction (i.e., price, quantity, performance obligation, delivery point, period of delivery and/or transportation conditions), which modify or supplement the Base Contract or General Terms and Conditions of this Contract (e.g., arbitration or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 1.3 but must be expressly agreed to by both parties; provided that the foregoing shall not invalidate any transaction agreed to by the parties.

Written Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Should the parties come to an agreement regarding a Gas purchase and sale transaction for a particular Delivery Period, the Confirming Party shall, and the other party may, record that agreement on a Transaction Confirmation and communicate such Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means, to the other party by the close of the Business Day following the date of agreement. The parties acknowledge that their agreement will not be binding until the exchange of nonconflicting Transaction Confirmations or the passage of the Confirm Deadline without objection from the receiving party, as provided in Section 1.3.

1.3. If a sending party's Transaction Confirmation is materially different from the receiving party's understanding of the agreement referred to in Section 1.2, such receiving party shall notify the sending party via facsimile, EDI or mutually agreeable electronic means by the Confirm Deadline, unless such receiving party has previously sent a Transaction Confirmation to the sending party. The failure of the receiving party to so notify the sending party in writing by the Confirm Deadline constitutes the receiving party's agreement to the terms of the transaction described in the sending party's Transaction Confirmation. If there are any material differences between timely sent Transaction Confirmations governing the same transaction, then neither Transaction Confirmation shall be binding until or unless such differences are resolved including the use of any evidence that clearly resolves the differences in the Transaction Confirmations. In the event of a conflict among the terms of (i) a binding Transaction Confirmation pursuant to Section 1.2, (ii) the oral agreement of the parties which may be evidenced by a recorded conversation, where the parties have selected the Oral Transaction Procedure of the Base Contract, (iii) the Base Contract, and (iv) these General Terms and Conditions, the terms of the documents shall govern in the priority listed in this sentence.

1.4. The parties agree that each party may electronically record all telephone conversations with respect to this Contract between their respective employees, without any special or further notice to the other party. Each party shall obtain any necessary consent of its agents and employees to such recording. Where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, the parties agree not to contest the validity or enforceability of telephonic recordings entered into in accordance with the requirements of this Base Contract.

SECTION 2. DEFINITIONS

The terms set forth below shall have the meaning ascribed to them below. Other terms are also defined elsewhere in the Contract and shall have the meanings ascribed to them herein.

- 2.1. "Additional Event of Default" shall mean Transactional Cross Default or Indebtedness Cross Default, each as and if selected by the parties pursuant to the Base Contract.
- 2.2. "Affiliate" shall mean, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of at least 50 percent of the voting power of the entity or person.
- 2.3. "Alternative Damages" shall mean such damages, expressed in dollars or dollars per MMBtu, as the parties shall agree upon in the Transaction Confirmation, in the event either Seller or Buyer fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer.
- 2.4. "Base Contract" shall mean a contract executed by the parties that incorporates these General Terms and Conditions by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required herein and any Special Provisions and addendum(s) as identified on page one.
- 2.5. "British thermal unit" or "Btu" shall mean the International BTU, which is also called the Btu (IT).
- 2.6. "Business Day(s)" shall mean Monday through Friday, excluding Federal Banking Holidays for transactions in the U.S.
- 2.7. "Confirm Deadline" shall mean 5:00 p.m. in the receiving party's time zone on the second Business Day following the Day a Transaction Confirmation is received or, if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped after 5:00 p.m. in the receiving party's time zone, it shall be deemed received at the opening of the next Business Day.
- 2.8. "Confirming Party" shall mean the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.
- 2.9. "Contract" shall mean the legally-binding relationship established by (i) the Base Contract, (ii) any and all binding Transaction Confirmations and (iii) where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, any and all transactions that the parties have entered into through an EDI transmission or by telephone, but that have not been confirmed in a binding Transaction Confirmation, all of which shall form a single integrated agreement between the parties.
- 2.10. "Contract Price" shall mean the amount expressed in U.S. Dollars per MMBtu to be paid by Buyer to Seller for the purchase of Gas as agreed to by the parties in a transaction.
- 2.11. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as agreed to by the parties in a transaction.
- 2.12. "Cover Standard", as referred to in Section 3.2, shall mean that if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract, then the performing party shall use commercially reasonable efforts to (i) if Buyer is the performing party, obtain Gas, (or an alternate fuel if elected by Buyer and replacement Gas is not available), or (ii) if Seller is the performing party, sell Gas, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the nonperforming party; the immediacy of the Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the nonperforming party.
- 2.13. "Credit Support Obligation(s)" shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as cash, an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, guaranty, or other good and sufficient security of a continuing nature.
- 2.14. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.
- 2.15. "Delivery Period" shall be the period during which deliveries are to be made as agreed to by the parties in a transaction.
- 2.16. "Delivery Point(s)" shall mean such point(s) as are agreed to by the parties in a transaction.
- 2.17. "EDI" shall mean an electronic data interchange pursuant to an agreement entered into by the parties, specifically relating to the communication of Transaction Confirmations under this Contract.
- 2.18. "EFP" shall mean the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm", provided that a party's excuse for nonperformance of its obligations to deliver or receive Gas will be governed by the rules of the relevant futures exchange regulated under the Commodity Exchange Act.

- 2.19. "Firm" shall mean that either party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.
- 2.20. "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.
- 2.21. "Guarantor" shall mean any entity that has provided a guaranty of the obligations of a party hereunder.
- 2.22. "Imbalance Charges" shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.
- 2.23. "Indebtedness Cross Default" shall mean if selected on the Base Contract by the parties with respect to a party, that it or its Guarantor, if any, experiences a default, or similar condition or event however therein defined, under one or more agreements or instruments, individually or collectively, relating to indebtedness (such indebtedness to include any obligation whether present or future, contingent or otherwise, as principal or surety or otherwise) for the payment or repayment of borrowed money in an aggregate amount greater than the threshold specified in the Base Contract with respect to such party or its Guarantor, if any, which results in such indebtedness becoming immediately due and payable.
- 2.24. "Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.
- 2.25. "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.
- 2.26. "Month" shall mean the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.
- 2.27. "Payment Date" shall mean a date, as indicated on the Base Contract, on or before which payment is due Seller for Gas received by Buyer in the previous Month.
- 2.28. "Receiving Transporter" shall mean the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.
- 2.29. "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.
- 2.30. "Specified Transaction(s)" shall mean any other transaction or agreement between the parties for the purchase, sale or exchange of physical Gas, and any other transaction or agreement identified as a Specified Transaction under the Base Contract.
- 2.31. "Spot Price " as referred to in Section 3.2 shall mean the price listed in the publication indicated on the Base Contract, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, if there is no single price published for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day.
- 2.32. "Transaction Confirmation" shall mean a document, similar to the form of Exhibit A, setting forth the terms of a transaction formed pursuant to Section 1 for a particular Delivery Period.
- 2.33. "Transactional Cross Default" shall mean if selected on the Base Contract by the parties with respect to a party, that it shall be in default, however therein defined, under any Specified Transaction.
- 2.34. "Termination Option" shall mean the option of either party to terminate a transaction in the event that the other party fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer for a designated number of days during a period as specified on the applicable Transaction Confirmation.
- 2.35. "Transporter(s)" shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a particular transaction.

SECTION 3. PERFORMANCE OBLIGATION

- 3.1. Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity for a particular transaction in accordance with the terms of the Contract. Sales and purchases will be on a Firm or Interruptible basis, as agreed to by the parties in a transaction.

The parties have selected either the “Cover Standard” or the “Spot Price Standard” as indicated on the Base Contract.

Cover Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the positive difference, if any, between the purchase price paid by Buyer utilizing the Cover Standard and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller for such Day(s) excluding any quantity for which no replacement is available; or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in the amount equal to the positive difference, if any, between the Contract Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually taken by Buyer for such Day(s) excluding any quantity for which no sale is available; and (iii) in the event that Buyer has used commercially reasonable efforts to replace the Gas or Seller has used commercially reasonable efforts to sell the Gas to a third party, and no such replacement or sale is available for all or any portion of the Contract Quantity of Gas, then in addition to (i) or (ii) above, as applicable, the sole and exclusive remedy of the performing party with respect to the Gas not replaced or sold shall be an amount equal to any unfavorable difference between the Contract Price and the Spot Price, adjusted for such transportation to the applicable Delivery Point, multiplied by the quantity of such Gas not replaced or sold. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

Spot Price Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the applicable Spot Price from the Contract Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

3.3. Notwithstanding Section 3.2, the parties may agree to Alternative Damages in a Transaction Confirmation executed in writing by both parties.

3.4. In addition to Sections 3.2 and 3.3, the parties may provide for a Termination Option in a Transaction Confirmation executed in writing by both parties. The Transaction Confirmation containing the Termination Option will designate the length of nonperformance triggering the Termination Option and the procedures for exercise thereof, how damages for nonperformance will be compensated, and how liquidation costs will be calculated.

SECTION 4. TRANSPORTATION, NOMINATIONS, AND IMBALANCES

4.1. Seller shall have the sole responsibility for transporting the Gas to the Delivery Point(s). Buyer shall have the sole responsibility for transporting the Gas from the Delivery Point(s).

4.2. The parties shall coordinate their nomination activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Each party shall give the other party timely prior Notice, sufficient to meet the requirements of all Transporter(s) involved in the transaction, of the quantities of Gas to be delivered and purchased each Day. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the Scheduled Gas, such party shall promptly notify the other party.

4.3. The parties shall use commercially reasonable efforts to avoid imposition of any Imbalance Charges. If Buyer or Seller receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's receipt of quantities of Gas greater than or less than the Scheduled Gas, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the

Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Scheduled Gas, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer.

SECTION 5. QUALITY AND MEASUREMENT

All Gas delivered by Seller shall meet the pressure, quality and heat content requirements of the Receiving Transporter. The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Receiving Transporter.

SECTION 6. TAXES

The parties have selected either "Buyer Pays At and After Delivery Point" or "Seller Pays Before and At Delivery Point" as indicated on the Base Contract.

Buyer Pays At and After Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at the Delivery Point(s) and all Taxes after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

Seller Pays Before and At Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

SECTION 7. BILLING, PAYMENT, AND AUDIT

7.1. Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. If the actual quantity delivered is not known by the billing date, billing will be prepared based on the quantity of Scheduled Gas. The invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

7.2. Buyer shall remit the amount due under Section 7.1 in the manner specified in the Base Contract, in immediately available funds, on or before the later of the Payment Date or 10 Days after receipt of the invoice by Buyer; provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date. In the event any payments are due Buyer hereunder, payment to Buyer shall be made in accordance with this Section 7.2.

7.3. In the event payments become due pursuant to Sections 3.2 or 3.3, the performing party may submit an invoice to the nonperforming party for an accelerated payment setting forth the basis upon which the invoiced amount was calculated. Payment from the nonperforming party will be due five Business Days after receipt of invoice.

7.4. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed without undue delay. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

7.5. If the invoiced party fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

7.6. A party shall have the right, at its own expense, upon reasonable Notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under the Contract. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Contract. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within two years after the Month of Gas delivery. All retroactive adjustments under Section 7 shall be paid in full by the party owing payment within 30 Days of Notice and substantiation of such inaccuracy.

7.7. Unless the parties have elected on the Base Contract not to make this Section 7.7 applicable to this Contract, the parties shall net all undisputed amounts due and owing, and/or past due, arising under the Contract such that the party owing the greater amount shall make a single payment of the net amount to the other party in accordance with Section 7; provided that no payment required to be made pursuant to the terms of any Credit Support Obligation or pursuant to Section 7.3 shall be subject to netting

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under this Section. If the parties have executed a separate netting agreement, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 8. TITLE, WARRANTY, AND INDEMNITY

8.1. Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and assume any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT AS PROVIDED IN THIS SECTION 8.2 AND IN SECTION 15.8, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

8.3. Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including reasonable attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury (including death) or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury (including death) or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8.4. The parties agree that the delivery of and the transfer of title to all Gas under this Contract shall take place within the Customs Territory of the United States (as defined in general note 2 of the Harmonized Tariff Schedule of the United States 19 U.S.C. §1202, General Notes, page 3); provided, however, that in the event Seller took title to the Gas outside the Customs Territory of the United States, Seller represents and warrants that it is the importer of record for all Gas entered and delivered into the United States, and shall be responsible for entry and entry summary filings as well as the payment of duties, taxes and fees, if any, and all applicable record keeping requirements.

8.5. Notwithstanding the other provisions of this Section 8, as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of Section 5.

SECTION 9. NOTICES

9.1. All Transaction Confirmations, invoices, payment instructions, and other communications made pursuant to the Base Contract ("Notices") shall be made to the addresses specified in writing by the respective parties from time to time.

9.2. All Notices required hereunder shall be in writing and may be sent by facsimile or mutually acceptable electronic means, a nationally recognized overnight courier service, first class mail or hand delivered.

9.3. Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party. Notice via first class mail shall be considered delivered five Business Days after mailing.

9.4. The party receiving a commercially acceptable Notice of change in payment instructions or other payment information shall not be obligated to implement such change until ten Business Days after receipt of such Notice.

SECTION 10. FINANCIAL RESPONSIBILITY

10.1. If either party ("X") has reasonable grounds for insecurity regarding the performance of any obligation under this Contract (whether or not then due) by the other party ("Y") (including, without limitation, the occurrence of a material change in the creditworthiness of Y or its Guarantor, if applicable), X may demand Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in the form, amount, for a term, and from an issuer, all as reasonably acceptable to X, including, but not limited to cash, a standby irrevocable letter of credit, a prepayment, a security interest in an asset or guaranty. Y hereby grants to X a continuing first priority security interest in, lien on, and right of setoff against all Adequate Assurance of Performance in the form of cash transferred by Y to X pursuant to this Section 10.1. Upon the return by X to Y of such Adequate Assurance of Performance, the security interest and lien granted hereunder on that Adequate Assurance of Performance shall be released automatically and, to the extent possible, without any further action by either party.

10.2. In the event (each an "Event of Default") either party (the "Defaulting Party") or its Guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be

unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other party with respect to any Credit Support Obligations relating to the Contract; (vii) fail to give Adequate Assurance of Performance under Section 10.1 within 48 hours but at least one Business Day of a written request by the other party; (viii) not have paid any amount due the other party hereunder on or before the second Business Day following written Notice that such payment is due; or ix) be the affected party with respect to any Additional Event of Default; then the other party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate the transactions under the Contract, in the manner provided in Section 10.3, in addition to any and all other remedies available hereunder.

10.3. If an Event of Default has occurred and is continuing, the Non-Defaulting Party shall have the right, by Notice to the Defaulting Party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date (the "Early Termination Date") for the liquidation and termination pursuant to Section 10.3.1 of all transactions under the Contract, each a "Terminated Transaction". On the Early Termination Date, all transactions will terminate, other than those transactions, if any, that may not be liquidated and terminated under applicable law ("Excluded Transactions"), which Excluded Transactions must be liquidated and terminated as soon thereafter as is legally permissible, and upon termination shall be a Terminated Transaction and be valued consistent with Section 10.3.1 below. With respect to each Excluded Transaction, its actual termination date shall be the Early Termination Date for purposes of Section 10.3.1.

The parties have selected either "Early Termination Damages Apply" or "Early Termination Damages Do Not Apply" as indicated on the Base Contract.

Early Termination Damages Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract and (ii) the Market Value, as defined below, of each Terminated Transaction. The Non-Defaulting Party shall (x) liquidate and accelerate each Terminated Transaction at its Market Value, so that each amount equal to the difference between such Market Value and the Contract Value, as defined below, of such Terminated Transaction(s) shall be due to the Buyer under the Terminated Transaction(s) if such Market Value exceeds the Contract Value and to the Seller if the opposite is the case; and (y) where appropriate, discount each amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant Terminated Transactions).

For purposes of this Section 10.3.1, "Contract Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the Contract Price, and "Market Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the market price for a similar transaction at the Delivery Point determined by the Non-Defaulting Party in a commercially reasonable manner. To ascertain the Market Value, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas futures contracts, quotations from leading dealers in energy swap contracts or physical gas trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term and differences in transportation costs. A party shall not be required to enter into a replacement transaction(s) in order to determine the Market Value. Any extension(s) of the term of a transaction to which parties are not bound as of the Early Termination Date (including but not limited to "evergreen provisions") shall not be considered in determining Contract Values and Market Values. For the avoidance of doubt, any option pursuant to which one party has the right to extend the term of a transaction shall be considered in determining Contract Values and Market Values. The rate of interest used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.

Early Termination Damages Do Not Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2),

for which payment has not yet been made by the party that owes such payment under this Contract.

The parties have selected either “Other Agreement Setoffs Apply” or “Other Agreement Setoffs Do Not Apply” as indicated on the Base Contract.

Other Agreement Setoffs Apply:

Bilateral Setoff Option:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the “Net Settlement Amount”). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party is hereby authorized to setoff any Net Settlement Amount against (i) any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract; and (ii) any amount(s) (including any excess cash margin or excess cash collateral) owed or held by the party that is entitled to the Net Settlement Amount under any other agreement or arrangement between the parties.

Triangular Setoff Option:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the “Net Settlement Amount”). At its sole option, and without prior Notice to the Defaulting Party, the Non-Defaulting Party is hereby authorized to setoff (i) any Net Settlement Amount against any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract; (ii) any Net Settlement Amount against any amount(s) (including any excess cash margin or excess cash collateral) owed by or to a party under any other agreement or arrangement between the parties; (iii) any Net Settlement Amount owed to the Non-Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Non-Defaulting Party or its Affiliates to the Defaulting Party under any other agreement or arrangement; (iv) any Net Settlement Amount owed to the Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Defaulting Party to the Non-Defaulting Party or its Affiliates under any other agreement or arrangement; and/or (v) any Net Settlement Amount owed to the Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Defaulting Party or its Affiliates to the Non-Defaulting Party under any other agreement or arrangement.

Other Agreement Setoffs Do Not Apply:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the “Net Settlement Amount”). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff any Net Settlement Amount against any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract.

10.3.3. If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 10.3.2 is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 10.3.2 shall be discounted to net present value in a commercially reasonable manner determined by the Non-Defaulting Party.

10.4. As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of the Net Settlement Amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount as well as any setoffs applied against such amount pursuant to Section 10.3.2, shall be paid by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount as adjusted by setoffs, shall accrue

from the date due until the date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

10.5. The parties agree that the transactions hereunder constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Buyer and Seller are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.

10.6. The Non-Defaulting Party's remedies under this Section 10 are the sole and exclusive remedies of the Non-Defaulting Party with respect to the occurrence of any Early Termination Date. Each party reserves to itself all other rights, setoffs, counterclaims and other defenses that it is or may be entitled to arising from the Contract.

10.7. With respect to this Section 10, if the parties have executed a separate netting agreement with close-out netting provisions, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 11. FORCE MAJEURE

11.1. Except with regard to a party's obligation to make payment(s) due under Section 7, Section 10.4, and Imbalance Charges under Section 4, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in Section 11.2.

11.2. Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars, or acts of terror; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

11.3. Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, Seller's ability to sell Gas at a higher or more advantageous price than the Contract Price, Buyer's ability to purchase Gas at a lower or more advantageous price than the Contract Price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Contract; (iv) the loss of Buyer's market(s) or Buyer's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 11.2; or (v) the loss or failure of Seller's gas supply or depletion of reserves, except, in either case, as provided in Section 11.2. The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.

11.4. Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the party experiencing such disturbance.

11.5. The party whose performance is prevented by Force Majeure must provide Notice to the other party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written Notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

11.6. Notwithstanding Sections 11.2 and 11.3, the parties may agree to alternative Force Majeure provisions in a Transaction Confirmation executed in writing by both parties.

SECTION 12. TERM

This Contract may be terminated on 30 Day's written Notice, but shall remain in effect until the expiration of the latest Delivery Period of any transaction(s). The rights of either party pursuant to Section 7.6, Section 10, Section 13, the obligations to make payment hereunder, and the obligation of either party to indemnify the other, pursuant hereto shall survive the termination of the Base Contract or any transaction.

SECTION 13. LIMITATIONS

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A

TRANSACTION, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

SECTION 14. MARKET DISRUPTION

If a Market Disruption Event has occurred then the parties shall negotiate in good faith to agree on a replacement price for the Floating Price (or on a method for determining a replacement price for the Floating Price) for the affected Day, and if the parties have not so agreed on or before the second Business Day following the affected Day then the replacement price for the Floating Price shall be determined within the next two following Business Days with each party obtaining, in good faith and from non-affiliated market participants in the relevant market, two quotes for prices of Gas for the affected Day of a similar quality and quantity in the geographical location closest in proximity to the Delivery Point and averaging the four quotes. If either party fails to provide two quotes then the average of the other party's two quotes shall determine the replacement price for the Floating Price. "Floating Price" means the price or a factor of the price agreed to in the transaction as being based upon a specified index. "Market Disruption Event" means, with respect to an index specified for a transaction, any of the following events: (a) the failure of the index to announce or publish information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading on the exchange or market acting as the index; (c) the temporary or permanent discontinuance or unavailability of the index; (d) the temporary or permanent closing of any exchange acting as the index; or (e) both parties agree that a material change in the formula for or the method of determining the Floating Price has occurred. For the purposes of the calculation of a replacement price for the Floating Price, all numbers shall be rounded to three decimal places. If the fourth decimal number is five or greater, then the third decimal number shall be increased by one and if the fourth decimal number is less than five, then the third decimal number shall remain unchanged.

SECTION 15. MISCELLANEOUS

15.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed; provided, either party may (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements, or (ii) transfer its interest to any parent or Affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon any such assignment, transfer and assumption, the transferor shall remain principally liable for and shall not be relieved of or discharged from any obligations hereunder.

15.2. If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.

15.3. No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.

15.4. This Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract and any effective transaction(s). This Contract may be amended only by a writing executed by both parties.

15.5. The interpretation and performance of this Contract shall be governed by the laws of the jurisdiction as indicated on the Base Contract, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.

15.6. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or transaction or any provisions thereof.

15.7. There is no third party beneficiary to this Contract.

15.8. Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

15.9. The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.

15.10. Unless the parties have elected on the Base Contract not to make this Section 15.10 applicable to this Contract, neither party shall disclose directly or indirectly without the prior written consent of the other party the terms of any transaction to a third party (other than the employees, lenders, royalty owners, counsel, accountants and other agents of the party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) to the extent necessary for the enforcement of this Contract, (iii) to the extent necessary to implement any transaction, (iv) to the extent necessary to comply with a regulatory agency's reporting requirements including but not limited to gas cost recovery proceedings; or (v) to the extent such information is delivered to such third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. Subject to Section 13, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. The terms of any transaction hereunder shall be kept confidential by the parties hereto for one year from the expiration of the transaction.

In the event that disclosure is required by a governmental body or applicable law, the party subject to such requirement may disclose the material terms of this Contract to the extent so required, but shall promptly notify the other party, prior to disclosure, and shall cooperate (consistent with the disclosing party's legal obligations) with the other party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party.

15.11. The parties may agree to dispute resolution procedures in Special Provisions attached to the Base Contract or in a Transaction Confirmation executed in writing by both parties

15.12. Any original executed Base Contract, Transaction Confirmation or other related document may be digitally copied, photocopied, or stored on computer tapes and disks (the "Imaged Agreement"). The Imaged Agreement, if introduced as evidence on paper, the Transaction Confirmation, if introduced as evidence in automated facsimile form, the recording, if introduced as evidence in its original form, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of the recording, the Transaction Confirmation, or the Imaged Agreement on the basis that such were not originated or maintained in documentary form. However, nothing herein shall be construed as a waiver of any other objection to the admissibility of such evidence.

DISCLAIMER: The purposes of this Contract are to facilitate trade, avoid misunderstandings and make more definite the terms of contracts of purchase and sale of natural gas. Further, NAESB does not mandate the use of this Contract by any party. **NAESB DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO NAESB'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT NAESB KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL NAESB BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.**

TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY

EXHIBIT A

Letterhead/Logo	Date: _____, ____ Transaction Confirmation #: _____			
This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____. The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.				
SELLER: _____ _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	BUYER: _____ _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____			
Contract Price: \$ _____/MMBtu or _____				
Delivery Period: Begin: _____, ____ End: _____, ____				
Performance Obligation and Contract Quantity: (Select One) <table style="width: 100%; border: none;"> <tr> <td style="width: 33%; vertical-align: top; padding: 5px;"> Firm (Fixed Quantity): _____ MMBtus/day <input type="checkbox"/> EFP </td> <td style="width: 33%; vertical-align: top; padding: 5px;"> Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller </td> <td style="width: 33%; vertical-align: top; padding: 5px;"> Interruptible: Up to _____ MMBtus/day </td> </tr> </table>		Firm (Fixed Quantity): _____ MMBtus/day <input type="checkbox"/> EFP	Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	Interruptible: Up to _____ MMBtus/day
Firm (Fixed Quantity): _____ MMBtus/day <input type="checkbox"/> EFP	Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of <input type="checkbox"/> Buyer or <input type="checkbox"/> Seller	Interruptible: Up to _____ MMBtus/day		

Delivery Point(s): _____ (If a pooling point is used, list a specific geographic and pipeline location):	
Special Conditions:	
Seller: _____	Buyer: _____
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

Special Provisions for NAESB Base Contract

between

J. ARON & COMPANY LLC (“Aron”) and**PUBLIC ENERGY FACILITIES AUTHORITY (“Counterparty”)**

dated

[July [], 2019]

J. Aron & Company LLC (“Aron”) and Public Energy Facilities Authority (“Counterparty” of “PEFA”) hereby agree to the following Special Provisions (“Special Provisions”) to the NAESB Base Contract for Sale and Purchase of Natural Gas (“Base Contract”), which modify and amend the Base Contract. Unless specifically agreed otherwise in a Transaction Confirmation, the Base Contract, as modified by these Special Provisions, shall apply to all transactions for the purchase and sale of Gas (each a “Transaction”) between the Parties. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Base Contract.

1. New Sections 1.5, 1.6 and 1.7 are added to Section 1 as follows:

1.5 Counterparty agrees that it will not enter into any Transactions under this Contract unless it is concurrently entering into a transaction (a “Matched Transaction”) with identical commercial terms (though with the roles of fixed price obligor and floating price obligor reversed) with a Project Participant (as defined below). Each party shall have the right to immediately terminate any Transaction hereunder, effective as of the last Day of the Month in which a Matched Transaction is terminated for any reason, if deliveries of Gas to the Project Participant under its Gas Supply Contract (as defined below) are terminated or suspended for any reason. Settlement for Gas delivered or exchanged in the Month such termination occurs will occur on a timely basis and Counterparty will ensure that each Project Participant is obligated to make corresponding payments under each Matched Transaction in the case of early termination.

1.6 Counterparty and Clayton Energy Corporation (“Clayton”) are parties to a Natural Gas Service Agreement dated as of [] (the “PEFA Service Agreement”). PEFA hereby appoints Clayton as its attorney-in-fact and agent to agree to and execute all Transactions hereunder and Clayton agrees to be bound by all actions taken by Clayton in this regard. For each Transaction executed on or after October 1, 2019 (the “Specified Date”), Counterparty represents that, as of the date such Transaction is entered into, (i) Clayton and the Project Participant executing the relevant Matched Transaction are also parties to a Natural Gas

Service Agreement (each, a “Participant Service Agreement”), (ii) the Project Participant has already executed or is executing the Matched Transaction contemporaneously, and execution and performance of such Matched Transaction by the Project Participant is authorized by all necessary actions of the governing body of such Project Participant, (iii) the Matched Transaction contains commercial terms that comply with Section 1.5, (iv) the Matched Transaction is subject to termination upon termination or suspension of the relevant Gas Supply Contract and upon any termination of the corresponding Transaction hereunder, (v) “Early Termination Damages” apply under such Matched Transaction to the same extent as they apply hereunder (provided that the Project Participant will be treated as the defaulting party if such Matched Transaction is terminated due to Counterparty being a defaulting party hereunder), (vi) the Project Participant is obligated under the terms of the Transaction to comply with the terms of any payment direction issued under Section 1.7 below and such payment direction may not be revoked without Aron’s prior written consent, (vii) the Project Participant has issued the payment instruction required by Section 10.1 below, (viii) the Project Participant is a member of PEFA, and (ix) Clayton has executed the Matched Transaction as agent and attorney-in-fact for such Project Participant and the Project Participant is bound in all respects by Clayton’s actions in that regard. Counterparty acknowledges that Aron may request information or other documentation verifying the Counterparty’s ability to make such representations prior to Aron being willing to consider any Transaction hereunder. For each Transaction entered into prior to the Specified Date (each, an “Initial Transactions”), Counterparty shall (i) provide to Aron, no later than the Specified Date, a certificate executed by Clayton verifying that that that such representations set forth in this Section 1.6 are true and correct, as of the Specified Date for each Initial Transaction, and (ii) provide Aron will information requested by Aron to verify the accuracy of such representations. To the extent that Counterparty does not provide such a certificate for any Initial Transaction or Aron is not satisfied, in its sole and absolute discretion, that any such representation is not true and correct as of the Specified Date in relation to any Initial Transaction, then, at any time on or after the Specified Date, Aron shall have the right to terminate any such Initial Transaction. To the extent such termination right is exercised within 30 days of the Specified Date in respect of any Initial Transaction or is based on Counterparty’s express acknowledgement (provided on or before the Specified Date) that such representations are not true and correct as they relate to such Initial Transaction, then no Early Termination Damages shall be due in connection with termination of such Initial Transaction. In all other cases, any termination rights or Early Termination Damages in relation to such Initial Transaction shall be determined in accordance with Section 10.2.

1.7 Upon request by Aron, Counterparty will issue an irrevocable payment direction to each Project Participant under a Matched Transaction requiring any payments due from such Project Participant thereunder to be paid into an account specified by Aron from time to time.

2. Section 2 is amended as follows:

- (i) The definition of “Indebtedness Cross Default” in Section 2.23 is amended by adding the following sentence to the end of the Section:

“Notwithstanding the foregoing, a default shall not constitute an Indebtedness Cross Default if (i) the default was caused solely by error or omission of an administrative or operational nature; (ii) funds were available to enable the party to make the payment when due; and (iii) the payment is made within two Business Days of such party’s receipt of written notice of its failure to pay.”

- (ii) The definition of “Specified Transaction(s)” in Section 2.30 is deleted and replaced with the following:

2.30 “Specified Transaction(s)” shall mean (a) any transaction (including an agreement with respect thereto), now existing or hereafter entered into between one party to this Contract or any applicable Specified Entity of such party and the other party to this Contract or any applicable Specified Entity of such other party which (i) is a forward, spot or option transaction transferring any commodity (including, but not limited to, electricity) other than natural gas or (ii) is a rate swap transaction, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option or any other similar transaction (including any option with respect to any of these transactions), (b) any combination of these transactions and (c) any other transaction identified as a Specified Transaction in this Contract including the relevant Transaction Confirmation.

- (iii) The definition of “Transactional Cross Default” in Section 2.33 is deleted and replaced with the following:

2.33 “Transactional Cross Default” shall mean the party, any Guarantor of such party or any applicable Specified Entity of such party (a) defaults under a Specified Transaction, and after giving effect to any applicable notice requirement or grace period there occurs a liquidation of, an acceleration of obligations under, or an early termination of that Specified Transaction; (b) defaults, after giving effect to any applicable notice requirement or grace period, in making any payment or delivery due on the last payment, delivery, or exchange date of, or any payment on early termination of, a Specified Transaction or; (c) disaffirms, disclaims, repudiates, or rejects, in whole or in part, a Specified Transaction or such action is taken by any person or entity appointed or empowered to operate or act on its behalf

- (iv) The following are added as new Sections 2.36 through 2.42:

2.36 “Bond Indenture” has the meaning specified in the Prepaid Contract.

2.37 “Gas Supply Contract” has the meaning specified in the Prepaid Contract.

2.38 "Illegality" means that, due to an event or circumstance (other than any action taken by a party) occurring after a Transaction is entered into, it becomes unlawful under any applicable law for either party to perform its payment or Gas delivery or exchange obligations under this Contract or any Transaction.

2.39 "Merger Event" means, with respect to a party, that such party consolidates or amalgamates with, or merges with or into, or transfers all or substantially all of its assets to, another entity and the creditworthiness of the resulting, surviving or transferee entity is materially weaker than that of such party immediately prior to such action.

2.40 "Prepaid Contract" means that certain Prepaid Natural Gas Sales Agreement dated [____], 2019 between Aron Gas Prepay 1 LLC and PEFA, Inc.

2.41 "Project Participant" has the meaning specified in the Prepaid Contract.

2.42 "Specified Entity" means:

(a) in relation to Aron, Goldman, Sachs & Co., Goldman Sachs Bank USA, Goldman Sachs International, Goldman Sachs Japan Co., Ltd., Goldman Sachs International Bank, Goldman Sachs (Asia) Finance, Goldman Sachs Financial Markets, L.P., Goldman Sachs Paris Inc. et Cie, Goldman Sachs Mitsui Marine Derivative Products, L.P., Goldman Sachs Bank SE and J. Aron & Company (Singapore) Pte.; and

(b) in relation to Counterparty, all Affiliates.

3. A new Section 3.5 is added to Section 3 as follows:

3.5 Notwithstanding anything in this Contract to the contrary, no damages will be payable for any non-delivery of Gas under this Contract nor shall either party be excused from settling any Transaction due to Force Majeure, non-delivery of Gas, non-receipt of Gas, or otherwise. To the extent any Gas is not physically delivered or exchanged as required under any Transaction for any reason (whether excused or otherwise), the parties will nonetheless settle such Transaction as if the full required quantity of Gas had been delivered or exchanged as required. No Imbalance Charges shall be due to or from either party under any Transaction hereunder. This Section 3.5 shall apply to all Transactions except to the extent a written and fully executed Transaction expressly states in writing that this Section 3.5 does not apply.

4. Section 10 Amendments.

A. The following language is added to the end of Section 10.1:

Without prejudice to the foregoing, (i) each Project Participant may be entitled to an "Annual Refund" under its Gas Supply Contract, (ii) each Project Participant that has executed a Matched Transaction has assigned the right to such payment to PEFA to the extent amounts are past due under the Matched Transaction at the time such payment would otherwise be made, and (iii) PEFA hereby assigns such rights to Aron. Counterparty shall, before executing any Matched Transaction with a Project Participant,

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cause such Project Participant to issue a payment direction (that is irrevocable without Aron's written consent) to PEFA, Inc. permitting Aron to require any such Annual Refund that would otherwise be paid to the Project Participant to be paid to Aron to the extent of any amounts owed to Aron hereunder.

B. Section 10.2 (Events of Default) is amended by inserting in the places indicated below the text that is in **bold and underlined** and by deleting the text shown below as ~~stricken~~:

In the event (each an "Event of Default") either party (the "Defaulting Party") or its Guarantor **or for the purposes of Transactional Cross Default only, any Specified Entity of such party** shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other party with respect to any Credit Support Obligations relating to the Contract; (vii) fail to give Adequate Assurance of Performance under Section 10.1 within **two Business Days** ~~48 hours but at least one~~ of a written request by the other party; (viii) not have paid any amount due the other party hereunder on or before the ~~first~~ **second** Business Day following written Notice that such payment is due; ~~or~~ **(ix) be the affected party with respect to any Additional Event of Default; or (x) be the subject of a Merger Event and shall fail to provide Adequate Assurance of Performance in the form of cash within two (2) Business Days of a request therefor (such Adequate Assurance of Performance Assurance not to exceed the amount that would be owed to the requesting party as a Net Settlement Amount (as such term is defined in Section 10.3.2 hereof), calculated as of the date of the demand, as if all Transactions had been terminated)**; then the other party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate the transactions under the Contract, in the manner provided in Section 10.3, in addition to any and all other remedies available hereunder. **For the avoidance of doubt, the Non-Defaulting Party shall have the right to withhold payment and/or suspend deliveries from the time that the Non-Defaulting Party requests Adequate Assurance of Performance under Section 10.1 or gives notice of the Defaulting Party's failure to pay under Section 10.2(viii) until such assurances are provided or such payment is made.**

In addition to the Events of Default listed above, it shall be an Event of Default hereunder with respect to Counterparty as the Defaulting Party if any of the following events occurs (each, an "Additional Counterparty Event of Default"):

(i) Any of the following occurs: (A) the Bond Indenture is amended in a manner that adversely impacts Counterparty's rights in respect of the Indenture Payments, (B) Counterparty fails to comply with its obligations under Section 10.1 with respect to Indenture Payments or (C) the trustee under the Bond Indenture fails to comply with a payment instruction issued by Aron as described in Section 10.1;

(ii) Counterparty's failure to comply with Section 15.13;

(iii) the occurrence of an Illegality;

(iv) The PEFA Services Agreement ceases to be in full force and effect or Clayton resigns or is terminated from its position under the PEFA Services Agreement; and

(v) a Gas Supply Contract or Matched Transaction becomes subject to suspension or termination by either party thereto.

Aron will have all rights as a Non-Defaulting Party in respect of any Additional Counterparty Event of Default. With respect to the Additional Counterparty Event of Default specified in clause (v) above, on the Transactions corresponding to the relevant Project Participant may be terminated and the other Transactions will continue.

In addition, upon the designation of an "Early Termination Date" under the Prepaid Contract, regardless of the cause of such Early Termination Date, either party may terminate this Contract and all Transactions hereunder upon written notice to the other party, with the effective date of such termination being the occurrence of the "Early Termination Date" under the Prepaid Contract. Upon any such termination of this Contract and all Transactions, each party shall calculate a "Market Value" under 10.3.1 as if it were a Non-Defaulting Party and communicate such Market Value to the other party. Aron shall calculate a payment (a "No-Fault Payment") due to either party under Section 10.3.1 based on amounts payable under clause (i) of Section 10.3.1 and the average of the Market Values calculated by the party. Such No-Fault Payment shall be paid by the appropriate party to the other party at the same time early termination damages would be due under Section 10.3.1.

C. Section 10.3.2 (Triangular Setoff Option), is amended by inserting in the places indicated below the text that is in **bold and underlined** and by deleting the text shown below as ~~stricken~~:

The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option, and without prior Notice to the Defaulting Party, the Non-Defaulting Party is hereby authorized to setoff (i) any Net Settlement Amount against any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract; (ii) any Net Settlement Amount against any amount(s) (including any excess cash margin or excess cash collateral) owed by or to a party under any other agreement or arrangement between the parties (**whether or not then due and whether subject to any contingency**); (iii) any Net Settlement Amount owed to the Non-Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Non-Defaulting Party or its Affiliates to the Defaulting Party under any other agreement or arrangement (**whether or not then due and whether subject to any contingency**); or (iv) any Net Settlement Amount owed to the Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Defaulting Party to the Non-Defaulting Party or its Affiliates under any other agreement or arrangement (**whether or not then due and whether subject to any contingency**); and/or (v) any Net Settlement Amount owed to the Defaulting Party against any amount(s) (including any excess cash margin or excess cash collateral) owed by the Defaulting Party or its Affiliates to the Non-Defaulting Party under any other agreement or arrangement. **For the avoidance of doubt, any excess shall be returned to the other party.**

5. Section 14 is amended by (i) deleting in the first sentence thereof, the words "in the geographical location closest in proximity to the Delivery Point" and (ii) deleting the second sentence thereof.

6. Section 15.1 is amended by (a) immediately following the words “merger or otherwise” inserting the following text “; or (iii) transfer this Contract pursuant to a consolidation or amalgamation with, or merger with or into, or transfer of all or substantially all its assets to, or reorganization, incorporation, reincorporation, or reconstitution into or as another entity, in the case of each of the foregoing clauses (i), (ii) and (iii),”; and (b) deleting the last sentence thereof.

7. Section 15.5 is amended by adding the following language to the end of the provision:

“WITH RESPECT TO ANY ACTION, SUIT OR PROCEEDINGS RELATING TO THIS CONTRACT (“PROCEEDINGS”), EACH PARTY IRREVOCABLY: (I) SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES DISTRICT COURT LOCATED IN THE BOROUGH OF MANHATTAN IN NEW YORK CITY, AND (II) WAIVES ANY OBJECTION WHICH IT MAY HAVE AT ANY TIME TO THE LAYING OF VENUE OF ANY PROCEEDINGS BROUGHT IN ANY SUCH COURT, WAIVES ANY CLAIM THAT SUCH PROCEEDINGS HAVE BEEN BROUGHT IN AN INCONVENIENT FORUM AND FURTHER WAIVES THE RIGHT TO OBJECT, WITH RESPECT TO SUCH PROCEEDINGS, THAT SUCH COURT DOES NOT HAVE JURISDICTION OVER SUCH PARTY. NOTHING IN THE CONTRACT PRECLUDES EITHER PARTY FROM BRINGING PROCEEDINGS IN ANY OTHER JURISDICTION IN ORDER TO ENFORCE ANY JUDGMENT OBTAINED IN ANY PROCEEDINGS REFERRED TO IN THE PRECEDING SENTENCE, NOR WILL THE BRINGING OF SUCH ENFORCEMENT PROCEEDINGS IN ANY ONE OR MORE JURISDICTIONS PRECLUDE THE BRINGING OF ENFORCEMENT PROCEEDINGS IN ANY OTHER JURISDICTION. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY PROCEEDINGS IN RELATION TO THIS CONTRACT.**”

8. Section 15.4 is amended by adding the following new sentence at the end of the section:
“The parties confirm the terms of all transactions related to the sale and purchase of Gas between the parties as evidenced by the written confirmations with respect thereto, and agree that such transactions are, effective as of the Effective Date, governed by this Base Contract, and are part of the single integrated agreement between the parties.”

9. The first sentence of Section 15.10 is amended by (a) adding “and of its Affiliates” in the third line after the word “party”; and (b) inserting the phrase “or regulatory, self-regulatory or legislative request” after the words “exchange rule”.

10. The following are added as new Sections 15.13 through 15.17:

15.13 Counterparty agrees as follows:

- a) Promptly after each calendar year, Counterparty will cause audited comprehensive annual financial reports for each of the top 10 Project Participants, by volume, in the Gas Project (as defined in the Prepaid Contract) to be delivered to Aron, which audits shall not be required to comply with generally accepted accounting practices in the United States but shall comply with any requirements applicable to the applicable Project Participant.

- b) If an Incipient Illegality occurs, Counterparty will, promptly upon becoming aware of it, notify Aron, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as the other party may reasonably require. As used herein, "Incipient Illegality" means (a) the enactment by any legislative body with competent jurisdiction over Counterparty of legislation which, if adopted as law, would render unlawful (i) the performance by Counterparty of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a Transaction or the compliance by Counterparty with any other material provisions of this Contract relating to such Transaction or (ii) the performance by Counterparty of any contingent or other obligation which Counterparty has under any Credit Support Obligation relating to such Transaction, (b) any assertion in any proceeding, forum or action by Counterparty, in respect of Counterparty or in respect of any entity organized under the laws of the state in which Counterparty is located, to the effect that performance under this Contract or similar agreements is unlawful or (c) the occurrence with respect to Counterparty of any event that constitutes an Illegality.
- c) Counterparty agrees that its obligations hereunder are, and until the termination of all Transactions pursuant to the terms hereof shall remain, amounts received under Matched Transactions and other funds legally available to make such payments hereunder.

15.14 Counterparty makes the following representations to Aron on the date hereof and on the date each Transaction is entered into:

- a) No Immunity. It is not entitled to claim immunity, and to the fullest extent permitted by applicable law irrevocably waives, on the grounds of sovereignty or other similar grounds with respect to itself or its revenues or assets (irrespective of their use or intended use) from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) or (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be made subject in any Proceedings in the courts of any jurisdiction and no such immunity (whether or not claimed) may be attributed to such party or its revenues or assets.
- b) Legal Investment. This Contract and each Transaction hereunder do not constitute any kind of investment by Counterparty that is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject.
- c) Organization. Counterparty is a joint powers agency and a political subdivision of a state, or an instrumentality, agency or department of either of the foregoing.
- d) Valid Purpose. The execution and delivery by Counterparty of this Contract, each Transaction and any other documentation relating hereto, and the performance by Counterparty of its obligations hereunder and thereunder, are in furtherance, and not in violation, of the public purposes for which Counterparty is organized pursuant to the laws of the state in which Counterparty is organized.

- e) Nature of Obligations. The obligations of Counterparty to make payments to Aron under this Contract and each Transaction (a) are not subject to appropriation or similar action and (b) do not (1) constitute any kind of indebtedness of Counterparty or (2) create any kind of lien on or security interest in any property or revenues of Counterparty which, in either case (1) or (2), is proscribed by any constitution, charter, law, rule, regulation, government code, constituent or governing instrument, resolution, guideline, ordinance, order, writ, judgment, decree, charge, or ruling to which Counterparty (or any of its officials in their respective capacities as such) or its property is subject.

15.15 Each party represents that (i) the creditworthiness of the counterparty is a material consideration for entering into this Contract and the transaction(s) contemplated in this Contract, (ii) by entering into this Contract and the transaction(s) contemplated in this Contract, each party shall rely solely upon its own judgment or that of its advisors, (iii) neither the counterparty, nor the counterparty's employees or agents, shall serve, or be deemed to have served, as its advisor regarding whether it should enter into this Contract or the transaction(s) contemplated by this Contract, and (iv) neither the counterparty, nor the counterparty's employees or agents, has acted as its fiduciary with respect to this Contract or the transaction(s) contemplated by this Contract and such counterparty shall not have any responsibility or liability with respect to any advice or information given or not given, or views expressed or not expressed, by the counterparty or the counterparty's employees or agents.

15.16 **Mobile-Sierra.** To the extent, if any, that a Transaction does not qualify as a "first sale" as defined by the Natural Gas Act ("NGA") and § 2(21) of the Natural Gas Policy Act ("NGPA") and is not exempt from the provisions of the NGA pursuant to § 601 of the NGPA, each party irrevocably waives its rights, including its rights under §§ 4 and 5 of the NGA, unilaterally to seek or support a change in the rate(s), charges, classifications, terms or conditions of this Contract, any Transaction hereunder or any other agreements entered into in connection with this Contract (collectively, the "Covered Agreements"). By this provision, each party expressly waives its right to seek or support: (i) an order from the U.S. Federal Energy Regulatory Commission ("FERC") finding that the market-based rate(s), charges, classifications, terms or conditions agreed to by the parties under the Covered Agreements are unjust and unreasonable; or (ii) any refund with respect thereto. Each party agrees not to make or support such a filing or request, and each party agrees that these covenants and waivers shall be binding notwithstanding any regulatory or market changes that may occur hereafter. Absent the agreement of both parties to the proposed change, the standard of review for changes to any rate, charge, classification, term or condition of the Covered Agreements, whether proposed by a party (to the extent that any waiver as set forth in this Section 15.15 is unenforceable or ineffective as to such party), a non-party or FERC acting *sua sponte*, shall be the "public interest" standard of review set forth in *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956), and *Federal Power Commission v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956), and clarified by subsequent applicable case law.

15.17 U.S. Resolution Stay Provisions.

(1) Recognition of the U.S. Special Resolution Regimes.

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(a) In the event that Aron becomes subject to a proceeding under (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder or (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder (a “U.S. Special Resolution Regime”), the transfer from Aron of this Contract, and any interest and obligation in or under, and any property securing, this Contract, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Contract, and any interest and obligation in or under, and any property securing, this Contract were governed by the laws of the United States or a state of the United States.

(b) In the event that Aron or an Affiliate of Aron becomes subject to a proceeding under a U.S. Special Resolution Regime, any Default Rights (as defined in 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable (“Default Right”)) under this Contract that may be exercised against Aron are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Contract were governed by the laws of the United States or a state of the United States.

(2) Limitation on Exercise of Certain Default Rights Related to an Affiliate’s Entry Into Insolvency Proceedings.

Notwithstanding anything to the contrary in this Contract, the parties expressly acknowledge and agree that:

- (a) Counterparty shall not be permitted to exercise any Default Right with respect to this Contract or any Affiliate Credit Enhancement that is related, directly or indirectly, to an Affiliate of Aron becoming subject to receivership, insolvency, liquidation, resolution, or similar proceeding (an “Insolvency Proceeding”), except to the extent that the exercise of such Default Right would be permitted under the provisions of 12 C.F.R. 252.84, 12 C.F.R. 47.5 or 12 C.F.R. 382.4, as applicable; and
- (b) Nothing in this Contract shall prohibit the transfer of any Affiliate Credit Enhancement, any interest or obligation in or under such Affiliate Credit Enhancement, or any property securing such Affiliate Credit Enhancement to a transferee upon or following an Affiliate of Aron becoming subject to an Insolvency Proceeding, unless the transfer would result in the Counterparty being the beneficiary of such Affiliate Credit Enhancement in violation of any law applicable to the Counterparty.

(3) U.S. Protocol.

If Counterparty adheres to the ISDA 2018 U.S. Resolution Stay Protocol, as published by the International Swaps and Derivatives Association, Inc. as of July 31, 2018 (the “ISDA U.S. Protocol”), after the date of this Contract, the terms of the ISDA U.S. Protocol will supersede and replace the terms of this Section 15.17.

For purposes of this Section 15.17:

“**Affiliate**” is defined in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).

“Credit Enhancement” means any credit enhancement or credit support arrangement in support of the obligations of Aron under or with respect to this Contract, including any guarantee, collateral arrangement (including any pledge, charge, mortgage or other security interest in collateral or title transfer arrangement), trust or similar arrangement, letter of credit, transfer of margin or any similar arrangement.

IN WITNESS WHEREOF, the parties have executed these Special Provisions to supplement, and, where applicable, to modify and amend the Base Contract by and between the parties.

J. ARON & COMPANY LLC

PUBLIC ENERGY FACILITIES AUTHORITY

Name:

Title:

Date:

Name:

Title:

Date: