

**AGENDA  
CITY COUNCIL MEETING  
April 7, 2020**

1. [Call the Meeting to Order – 5:30 p.m.](#)

2. [Pledge of Allegiance](#)

Anyone desiring to view the Open Meetings Act may do so. The document is available for public inspection and is located on the southwest wall of the Council Chambers as well as on the City of Wayne website at [cityofwayne.org/8/Government](http://cityofwayne.org/8/Government).

**Citizens have the right under the Open Meetings Act to attend all meetings of public bodies. Pursuant to the Governor’s Executive Order No. 20-03, this meeting will be held by video/telephone conference. Members of the public may attend this meeting electronically.**

**Please join this meeting from your computer, tablet or smartphone by going to the City of Wayne website at [cityofwayne.org](http://cityofwayne.org).**

The City Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

3. [Approval of Minutes – March 17, 2020 and March 27, 2020](#)
4. [Approval of Claims](#)
5. [Action to allow the City to contract with Robert Woehler & Sons Construction Inc. on emergency situations](#)

**Background:** This action would allow the City of Wayne and Robert Woehler and Sons Construction to contract on emergency situations (i.e. water main breaks). Nebraska Revised Statute 49-14,102 prohibits public officials, public employees, members of that individual’s immediate family or business to enter into a contract at \$2,000 or more annually without the contract being awarded to the person or business “through an open and public process.” This does not require the City to use Robert Woehler and Sons Construction; it gives the City the option while satisfying statute requirements for the contractor. The City Auditor and staff recommend approving this action.

6. [Discussion and action to suspend the payment due dates for City of Wayne LB 840 Loans and Special Assessments without penalty and interest due to COVID-19 Pandemic](#)

**Background:** The Mayor and staff wanted to have this discussion with the Council to decide whether or not to delay payments from LB 840 and City-held assessments for a certain amount of time. Due to the COVID-19 virus and the business interruptions that have occurred, we thought it was timely to discuss these options.

7. [Resolution 2020-16: Approving Agreement with Tom Hansen, Certified Public Accountant, to compile financial information regarding the COVID-19 Pandemic](#)

**Background:** This agreement will contract services with Tom Hansen, CPA, to help prepare and compile whatever is necessary to submit to the appropriate agencies regarding expenses incurred as a result of the COVID-19 pandemic. Their fee for said services is \$100 per hour, plus out-of-pocket expenses.

8. [Resolution 2020-17: Adopting the Lower Elkhorn Natural Resource District Multi-Jurisdictional Hazard Mitigation Plan Update](#)

**Background:** The Lower Elkhorn Natural Resource District has updated the 2015 Multi-Jurisdictional Hazard Mitigation Plan (HMP). A HMP is a community guided document that identifies vulnerability to natural and man-made hazards and mitigation measures to reduce or eliminate this vulnerability. Having an approved and updated HMP in place is a requirement of FEMA for communities, counties, school districts and other groups to be eligible for pre- and post-disaster mitigation grants, which are available on an annual basis as appropriated by Congress. These federal grants allow for up to 75% cost-share for a wide variety of projects listed in the plan. The Lower Elkhorn NRD's previous HMP was approved by FEMA in 2015, and FEMA requires that the HMP must be updated and approved every five years. JEO Consulting Group, Inc., has prepared the plan and the same has been reviewed and approved by the State and FEMA, and it is now time for the entities in our jurisdiction to adopt the plan locally. The plan is lengthy – here is the link to view the same: [https://jeo.com/sites/default/files/inline-files/14\\_Wayne%20County%20Appendix.pdf](https://jeo.com/sites/default/files/inline-files/14_Wayne%20County%20Appendix.pdf).

9. [Resolution 2020-18: Accepting Proposal and Awarding Contract on the “Bressler Park Stage Canopy Project”](#)

**Background:** Council President Jill Brodersen sought two proposals for the “Bressler Park Stage Canopy Project.” One proposal was from Crouch Recreation for \$21,080; the other from Commercial Recreation Specialists for \$24,830. Jill has provided information for both proposals and a letter outlining why she is recommending that the City go with the proposal from Commercial Recreation Specialists.

10. [Ordinance 2020-6: Authorizing the Issuance of a Combined Utility Revenue Bond, 2020 Series, of the City of Wayne, Nebraska, in the principal amount of not to exceed \\$3,030,000 in the form of a Promissory Note issued to evidence indebtedness to the Nebraska Department of Environment and Energy; approving the form of said bond \(issued as a single promissory note\) and related Loan Agreement; pledging and hypothecating the revenues and earnings of the waterworks plant and water system and the sewage disposal plant and sanitary sewer system owned by the City for the payment of said bond; providing for the issuance and sale of said bond; authorizing the delivery of said bond to the Nebraska Department of Environment and Energy; determining that interest on said bond shall not be excludable from gross income for purposes of federal income taxation; providing for the disposition of the proceeds of said bond and ordering the ordinance published in pamphlet form](#)

**Background:** This ordinance is needed to finance the new 16” transmission main from an existing wellfield north of Wayne to a standpipe located on the west side of Wayne, together with related appurtenant water system facilities and improvements. This funding is received through the Drinking Water State Revolving Loan Fund (DWSRF) through the State. Council will be asked to waive the three readings on this ordinance.

11. [Action on Pay Application No. 1 in the amount of \\$20,520 to Sioux Contractors, Inc., for the “Wayne Senior Center – Room and Walk-in Freezer Addition Project”](#)

**Background: This pay application is for work completed and approved by the project architect, Jill Brodersen.**

12. Appointments:

Library Board:

Marilyn Quance (term will expire 6/30/23)

Chris Costa (term will expire 6/30/23)

Wayne Housing Authority:

Jean Lutt (term will expire 6/30/23)

Randy Lutt (term will expire 6/30/23)

Jill Walling (term will expire 6/30/22)

Peg Lutt (term will expire 6/30/24)

Sharon Denker (Resident Commissioner)

13. Action to postpone indefinitely the town hall meeting on annexation that was set for April 21, 2020, at the Wayne Fire Hall at 5:30 p.m.
14. Update on Water/Sewer Issues (Lift Station No. 2 State of Emergency, Transmission Water Main Project and Well No. 7 Chemical Storage Room Addition Project)
15. Update on COVID-19 Pandemic
16. Adjourn

**MINUTES  
CITY COUNCIL MEETING  
March 17, 2020**

The Wayne City Council met in regular session at the Wayne City Auditorium (due to circumstances associated with the COVID 19 Pandemic) on March 17, 2020, at 5:30 o'clock P.M.

Mayor Cale Giese called the meeting to order, followed by the Pledge of Allegiance, with the following in attendance: Councilmembers Dwaine Spieker, Jon Haase, Chris Woehler, Jason Karsky, Matt Eischeid and Jill Brodersen; Attorney Amy Miller; City Administrator Wes Blecke; and City Clerk Betty McGuire. Absent: Councilmembers Terri Buck and Jennifer Sievers.

Notice of the convening meeting was given in advance by advertising in the Wayne Herald on March 5, 2020, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Mayor Giese advised the public that a copy of the Open Meetings Act was located on the southwest wall of the City Auditorium and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Councilmember Haase made a motion, which was seconded by Councilmember Eischeid, to approve the minutes of the meeting of March 3, 2020, and to waive the reading thereof. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried and the Minutes approved.

The following claims were presented to Council for their approval:

**VARIOUS FUNDS:** AMERICAN UNDERGROUND SUPPLY, SU, 174.70; AMGL, SE, 28650.00; APPEARA, SE, 49.00; BAKER & TAYLOR BOOKS, SU, 845.98; BARCO MUN PRODUCTS, SU, 209.38; BOMGAARS, SU, 1257.26; BORDER STATES INDUSTRIES, SU, 188.60; BSN SPORTS, SU, 71.94; CARHART LUMBER COMPANY, SU, 507.29; CITY EMPLOYEE, RE, 1591.08; CITY EMPLOYEE, RE, 396.17; CITY EMPLOYEE, RE, 1720.05; CITY EMPLOYEE, RE, 9.54; DANKO EMERGENCY EQUIPMENT, SU, 58.32; DANLADI, PHIMWANALA, SE, 360.00; DANLADI, PHIMWANALA, SE, 60.00; DAVE'S DRY CLEANING, SE, 51.00; DEARBORN LIFE INSURANCE COMPANY, SE, 2447.75; DIETRICH UPHOLSTERY, SE, -300.00; DIETRICH UPHOLSTERY, SE, 190.00; ECHO GROUP, SU, 12.01; ED M. FELD EQUIPMENT, SU, 120.00; ESRIM, SE, 2123.70; EVETOVICH, MARK, SE, 60.00; EVETOVICH, MARK, SE, 360.00; FAITH REGIONAL PHYSICIAN SERV, SE, 90.00; FASTENAL, SU, 16.10; FLOOR MAINTENANCE, SU, 803.70; HILAND DAIRY, SE, 85.01; HILAND DAIRY, SE, 70.37; HYPERION, SE, 81.00; ICC, FE, 135.00; ICMA, SE, 8053.69; INGRAM LIBRARY SERVICES, SU, 742.99; INTERSTATE ALL BATTERY, SU, 71.26; LUNDAHL, EARL, RE, 350.00; LUTT OIL, SU, 3671.21; MATHESON-LINWELD, SU, 31.99; MERCHANT SERVICES, SE, 1009.46; MERCHANT SERVICES, SE, 1799.08; MERCHANT SERVICES, SE, 28.23; MIDWEST LABORATORIES, SE, 273.00; MILLER LAW, SE, 155.90; MUNICIPAL SUPPLY, SU, 703.23; NE RURAL WATER, FE, 275.00; NE SALT & GRAIN, SU, 1912.75; NPPD, SE, 29308.24; NORFOLK DAILY NEWS, SU, 163.00; NORTHEAST NEBRASKA NEWS, SU, 36.50; NORTHEAST POWER, SE, 171.70; NORTHEAST TIRE SERVICE, SU, 2404.00; OCC BUILDERS, SU, 317.00; OVERDRIVE, SU, 492.39; OVERHEAD DOOR, SU, 5432.00; PITNEY BOWES, SE, 253.85; PLUMBING & ELECTRIC SERVICE, SE, 1601.80; PLUNKETT'S PEST CONTROL, SE, 43.26; QUALITY FOOD CENTER, SU, 318.01; S & S WILLERS, SU, 1732.85; SKARSHAUG TESTING LAB, SE, 213.11; STATE NEBRASKA BANK & TRUST, SE, 45.76; US BANK, SE, 10810.56; US FOODSERVICE, SU, 1123.16; UTILITIES SECTION, FE, 480.00; UTILITIES SECTION, FE, 2285.00; UTILITY EQUIPMENT, SU, 158.48; VERIZON, SE, 399.65; WAYNE AUTO PARTS, SU, 526.48; WAYNE COUNTY CLERK, SE, 62.00; WAYNE COUNTY COURT, RE, 250.00; WAYNE COUNTY COURT, RE, 300.00; WAYNE HERALD, SE, 48.00; WAYNE HERALD, SE, 545.50; WAYNE HERALD, SE, 1229.55; WAYNE VETERINARY CLINIC, SE, 112.00; WIN-911, SE, 495.00; WISNER WEST, SU, 47.56; WORLDPAY INTERGRATES PAYMENTS, SE, 201.88; ZACH HEATING & COOLING, SU, 174.00; AMERITAS, SE, 154.17; AMERITAS, SE, 2544.14; AMERITAS, SE, 72.00; AMERITAS, SE, 92.54; APPEARA, SE, 157.22; ARDENT LIGHTING GROUP, SE, 209465.79; ARNIE'S FORD, SU, 386.78; BIG RIVERS ELECTRIC CORPORATION, SE, 167268.17; CARPENTER PAPER COMPANY, SU, 583.23; CITY OF WAYNE, PY, 81535.26; DAS STATE ACCTG-CENTRAL FINANCE, SE, 60.15; DUTTON-LAINSON, SU, 8433.97; EAKES OFFICE PLUS, SE, 261.25; ECHO GROUP, SU, 463.98; FASTENAL, SU, 359.55; HILAND DAIRY, SU, 84.81; INTERSTATE INDUSTRIAL SERVICE, SE, 135.08; IRS, TX, 10216.24; IRS, TX, 13681.20; IRS, TX, 3199.56; MARCO TECHNOLOGIES, SE, 182.96; MIDWEST SERVICE & SALES, SU, 566.60; MILLIGAN, CINDY, RE, 500.00; NE DEPT OF REVENUE, TX, 4316.47; QUADIENT LEASING, SE, 2691.00; STAPLES, SU, 111.24; WAYNE COUNTY COURT, RE, 150.00; WESCO, SU, 310.30

Councilmember Haase made a motion, which was seconded by Councilmember Eischeid, to approve the claims. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

Mayor Giese proclaimed the month of April as “Fair Housing Month.”

Retail Reclaimers, LLC, was approved for a \$145,000 loan from Wayne’s Community Development Block Grant (CDBG) Revolving Loan Fund (RLF) on 11-5-2019. This loan is to open an Ace Hardware and Home Store to be located at the former Shopko building at 615 Dearborn Street in Wayne. That was the total available balance at that time. This loan was approved for a term of 15 years at a fixed rate of 0.00%, but has not yet been loaned to the business. Once the loan is closed, payments will start 12 months after the initial opening of the store, followed by regular principal payments over the next 15 years. Since that time, the only remaining Wayne RLF loan was paid in full on 3-2-2020. This added another \$10,000, leaving approximately a \$155,000 balance in this account.

At the direction of the Nebraska Department of Economic Development (DED) to close out local RLF programs, NENEDD staff is recommending the additional \$10,000 be loaned to Retail Reclaimers, LLC, for their project. This will be a total of \$155,000 or the exact balance of Wayne’s CDBG RLF account at the time of loan closing. These funds will be sub-granted to NED, Inc., as a Non-profit Development Organization (NDO), who will in turn lend the \$155,000 to Retail Reclaimers, LLC. All other rate, terms, and collateral of the initial 11-5-2019 loan approval will remain the same. The Northeast Loan committee also recommends the additional \$10,000 for approval.

Mike McManigal, representing Retail Reclaimers, LLC, was present to answer questions.

Councilmember Spieker made a motion, which was seconded by Councilmember Karsky, to approve the recommendation of the Northeast Nebraska Economic Development District to lend an additional \$10,000 to Retail Reclaimers, LLC, for a total of \$155,000 or the total balance of Wayne’s Revolving Loan Fund Account and sub-grant the funds to NED, Inc., to lend to Retail Reclaimers, LLC, utilizing the Non-Profit Development Organization process. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of

Councilmembers Buck and Sievers who were absent and Councilmember Woehler who abstained, the Mayor declared the motion carried.

Mayor Giese stated the time was at hand for the public hearing to consider the Planning Commission's recommendation in regard to amending the Zoning Text, specifically Section 152.132 (E) Unattached Accessory Use. The applicant, Providence Medical Center, wishes to amend this section to allow a medical facility to build a larger accessory structure than is currently allowed by City Code.

The Planning Commission reviewed this matter at their public hearing on March 2, 2020, and forwarded a recommendation to approve the same, with the "Finding of Fact" being staff's recommendation.

Joel Hansen, Street and Planning Director, stated the Planning Commission is recommending the following amendment to Section 152.132 (E) Unattached Accessory Use:

(E) *Unattached accessory use.* Any unattached accessory building(s) in combination with the principal or primary structure, in any R designated zoning district, shall not exceed a combined area greater than 50% of the lot area, provided the combined total area of all unattached accessory structures shall not exceed 1,064 square feet or 7% of the lot area up to 3,000 square feet, whichever is greater, except as allowed in § 152.064 (C) for multi-family uses in an R-3 or R-4 District. **These restrictions on size of accessory structures shall not pertain to hospitals, medical care facilities, educational facilities, or public facilities.**

Mark Tietz and James Frank, representing Providence Medical Center, were present to answer questions.

City Clerk McGuire had not received any comments, either verbal or in writing, for or against this public hearing.

There being no further comments, Mayor Giese closed the public hearing.

Councilmember Eischeid introduced Ordinance No. 2020-5, and moved for approval thereof; Councilmember Karsky seconded.

#### ORDINANCE NO. 2020-5

AN ORDINANCE TO AMEND WAYNE MUNICIPAL CODE TITLE XV LAND USAGE, CHAPTER 152 ZONING, SECTION 152.132 ACCESSORY USES, SUBSECTION (E) UNATTACHED ACCESSORY USE; TO PROVIDE FOR THE

REPEAL OF CONFLICTING ORDINANCES AND SECTIONS; AND TO PROVIDE FOR AN EFFECTIVE DATE.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

Councilmember Eischeid made a motion, which was seconded by Councilmember Karsky, to suspend the statutory rules requiring ordinances to be read by title on three different days. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

Councilmember Eischeid made a motion, which was seconded by Councilmember Spieker, to move for final approval of Ordinance No. 2020-5. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

Mayor Giese stated that agenda item no. 9, which is a public hearing to consider the Planning Commission's recommendation in regard to a rezoning request for Lot 3, Southeast Addition to the City of Wayne, Wayne County, Nebraska, and then agenda item no. 10 which is an ordinance amending the zoning map are going to be postponed until a future meeting.

Administrator Blecke stated two proposals were received on the "Well No. 7 Chemical Storage Room Addition Project." Staff recommendation is to award the contract to the low bidder, Benscoter Construction, for \$19,425. The other proposal submitted was from Leseberg Masonry and Construction for \$21,816.00. Benscoter Construction met the City's insurance requirements.

Casey Junck, Water Supervisor, was present to answer questions. He noted the contractor is ready to start.

Councilmember Eischeid introduced Resolution No. 2020-11 and moved for its approval; Councilmember Woehler seconded.

#### RESOLUTION NO. 2020-11

A RESOLUTION ACCEPTING PROPOSAL AND AWARDING CONTRACT ON THE “WELL NO. 7 CHEMICAL STORAGE ROOM ADDITION PROJECT” FOR THE CITY OF WAYNE, NEBRASKA, TO BENSCOTER CONSTRUCTION FOR \$19,425.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

David Wiggins, representing Leo A Daly, the engineers on the “Restoration of Walking Trail Project” stated two bids were received on this project. Mr. Wiggins’ recommendation is to accept the bid and award the contract to the low bidder, M & B Quality Concrete, LLC, of Norfolk, Nebraska, for \$899,202.25. The other bid submitted was from Robert Woehler & Sons Construction, Inc., for \$1,276,775.75. There were some irregularities with the bid of M & B Quality Concrete, LLC – the first three items on the Base Bid Schedule did not have a unit price. The quantity however was “one” and the total cost reflected that. That irregularity did not change the bid price. The other item was that the bid bond that was provided was signed, but did not have the seal stamp thereon. They now have that bid bond with the seal thereon. He noted the City may waive those irregularities or informalities according to the bid specifications. He has called references and received positive responses as far as workmanship, timeliness, communication and staying on schedule.

Brent Berner, representing M & B Quality Concrete, LLC, was present to answer questions.

Councilmember Brodersen introduced Resolution No. 2020-12 and moved for its approval; Councilmember Karsky seconded.

RESOLUTION NO. 2020-12

A RESOLUTION ACCEPTING BID AND AWARDING CONTRACT ON THE “RESTORATION OF WALKING TRAIL PROJECT” TO M & B QUALITY CONCRETE, LLC, FOR \$889,202.25.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent and Councilmember Woehler who abstained, the Mayor declared the motion carried.

Lowell Heggemeyer, Park and Rec Director, and Amber Schwarte, Recreation Services Coordinator, updated the Council on the Community Activity Center improvements. In addition, he provided an update on the track issues.

Administrator Blecke requested Council to decide if they wanted to do spot repairs on the CAC track or if they wanted to replace the three lanes all the way to the water fountain. At this point, he did not think the entire track needed replaced.

Councilmember Eischeid made a motion, which was seconded by Councilmember Spieker, directing City staff to seek bids for the track repair project at the Community Activity Center – (Option 1) replacing approximately 40% of the track; and (Option 2) spot repairs. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

Amber Schwarte, Recreation Services Coordinator, requested Council consideration to amending the schedule of fees for the Community Activity Center as follows:

**Pool Pass:**

Add Senior Citizen (age 55 and up) - \$70.00

**Personal Training:**

Member/Non-Member Same Price

30 Minute Session – from \$10 to \$15

45 Minute Session – from \$15 to \$20

60 Minute Session – from \$20 to \$25

Councilmember Karsky introduced Resolution No. 2020-13 and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2020-13

A RESOLUTION AMENDING SCHEDULE OF FEES.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

Joel Hansen, Street and Planning Director, stated he would like to replace the 1990 portable air compressor with a new one from Logan Contractors Supply, Inc., for \$21,625.00, which is through the State Bid process. \$22,000 was placed in this year's budget to replace that 1990 air compressor.

Councilmember Brodersen introduced Resolution No. 2020-14 and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2020-14

A RESOLUTION AUTHORIZING THE PURCHASE OF A PORTABLE AIR COMPRESSOR AS PER THE STATE BID PROPOSAL RECEIVED FROM LOGAN CONTRACTORS SUPPLY, INC., FOR \$21,625.00.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

Mayor Giese requested Council consideration to the appointment of Chele Meisenbach (term will expire 6/30/21) and Mark Sorensen (term will expire 6/30/22) to the Planning Commission.

Councilmember Brodersen made a motion, which was seconded by Councilmember Spieker, approving the appointment of Chele Meisenbach (term will expire (6/30/21) and Mark Sorensen (term will expire 6/30/22) to the Planning Commission. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

Mayor Giese requested Council consideration to the appointment of Bob McLean and Andy Haslit to the Civil Service Commission.

Councilmember Brodersen made a motion, which was seconded by Councilmember Spieker, approving the appointment of Bob McLean and Andy Haslit to the Civil Service Commission. Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, the Mayor declared the motion carried.

Roger Protzman, representing JEO Consulting Group, Inc., updated the Council on the “Water Main from North Well Field to City Limits Project” and reviewed Amendment No. 2 to the agreement with JEO Consulting Group, Inc., for additional services for said project. The additional amount would be \$47,355, bringing the adjusted agreement amount to \$176,430.

Staff requested the additional engineering services agreement to make sure that the key areas of this line are looked at carefully, not just by city staff, but by an engineer.

Councilmember Woehler questioned the billing rate of \$205 per hour compared to that which was charged for the Pine Heights Project (almost half).

Mr. Protzman noted that the 33 hours per month is an estimate.

Lucas Billesbach, also representing JEO Consulting Group, Inc., was present and stated that the rate is for the engineering services of Mr. Protzman. JEO does not have available a lower rate engineer for that particular period of time.

Administrator Blecke stated that Mr. Protzman, with his experience, is going to see things that maybe the \$115 per hour engineer might not. Is it worth that?

Mayor Giese stated he personally would rather pay extra to have somebody here that we know and have a working relationship with and that staff is not only comfortable with but also comfortable communicating with. Councilmember Spieker agreed.

Councilmember Eischeid introduced Resolution No. 2020-15 and moved for its approval; Councilmember Spieker seconded.

RESOLUTION NO. 2020-15

A RESOLUTION APPROVING AMENDMENT NO. 2 TO THE OWNER-ENGINEER AGREEMENT WITH JEO CONSULTING GROUP, INC., FOR ADDITIONAL SERVICES FOR THE “TRANSMISSION WATER MAIN FROM NORTH WELL FIELD TO CITY LIMITS PROJECT.”

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent and Councilmember Woehler who voted Nay, the Mayor declared the motion carried.

Roger Protzman, representing JEO Consulting Group, Inc., updated the Council on the Lift Station No. 2 Repair Project. They discovered that all four pumps were no longer secured to the base of the lift station. They are going to replace some pipe and apply some coatings to the lower 12’ of the structure. They are still undergoing some investigation to find out what caused the stress to cause the anchors to fail.

Casey Junck, Water Supervisor, was also present to answer questions.

Roger Protzman and Lucas Billesbach representing JEO Consulting Group, Inc., were present to give an update on the Aquatic Center issues.

They provided the following background information:

At the end of the 2018 pool season, City staff expressed a concern regarding leakage. The pipe to the wall suction boxes on the east side of the pool was identified, and a repair was made by the contractor in the spring of 2019. Initially, it was thought this repair would solve the water loss issue. When staff filled the pool after the repair in 2019, it was still perceived to be losing water. Leak Investigators were contacted to do an onsite review. During their observations, some discontinuities and separations were observed between the adjoining concrete and caulk material that lead them to believe that the caulked ones were an area of potential leakage. City staff left the existing caulk in place and applied the recommended caulk to the joints.

Throughout the 2019 swim season, City staff and JEO observed the manhole that collects water from the underdrain system. Water was observed entering the structure. This water was tested for chlorine residual and was observed to have chlorine, possibly indicating that water was leaking from the pool and entering the underdrain system.

On August 19, 2019, JEO coordinated and paid a scuba diver to perform a dye test, which is performed with the pool full of water. The two pool main drains and the play feature return lines were targeted as potential leak areas and were dye tested extensively. The dye testing did not identify any further leaks at any of the points tested. Leak Investigators were contacted and returned to the site in the fall of 2019 to test the return and drain lines for the pool using air as the medium for testing. The testing showed those lines to be intact as they did not lose pressure during the test.

Prior to draining the pool in 2019, between August 15 and 26, measurements were taken every 2-4 days to observe the water level change in the pool. They collected data, which showed approximately a 2,000 gallon per day loss rate after the water level dropped below the gutter.

JEO also researched similar sized pools to compare their pool facility water usage with Wayne's. They found that many communities do not track water usage or maintain records. Of the records they did obtain, the data was based on their water meter records and not a representation of their water loss. In reviewing the numbers, they found that the overall water use at Wayne is within a reasonable range comparable to other facilities similar in size.

The last item of concern was the elevations of the gutter system on the pool. It was brought to their attention that the gutter system was not level. They surveyed the system and found that the diving well is about 0.1 ft. lower than the zero-depth zone of the pool. The deck elevations at the zero-depth zone are about 0.1 ft. higher than design. They are trying to discern if the gutter was installed incorrectly, the diving well settled, or the shallow end heaved. They are proposing to check those elevations in the spring as the frost comes out of the ground to discern if there has been a subsequent change.

Administrator Blecke stated what he could not understand was that the pictures in the shallow end in August of 2016 looked good. Then, in October of 2016, this fix is done – why did we do a fix it if there was nothing to fix?

Councilmember Woehler had concerns about putting a “scab” over a “scab” on the pool.

Mr. Protzman has been researching emails and documents to try to determine when and why this fix was done and who knew about it. In response to Councilmember Woehler’s comment about the City not knowing about this, Mr. Protzman felt that people in the City did know about it. There was some problem there that he and the Council do not know about at this point.

Mr. Billesbach stated the other engineer (Dave Henke) who was supposed to be at this meeting tonight was unable to attend because of illness. He was the main engineer on the project and would have more history on this topic. Mr. Billesbach’s understanding was that the original unlevelness was due to an instrument failure caused by the subcontractor that set the gutters. Whether that is 100% true or not he did not know, but thought he could get that documentation. JEO had progress meetings monthly and those types of issues would have been discussed. As Mr. Protzman stated, he would have hoped that was discussed with city staff, and did not believe that would have been a decision that would have been made by JEO alone. They will go back through their records.

Mr. Protzman stated that part of the headache was at that point, the contractor was gone, and they were not having regular monthly meetings because that project had concluded in July. By the time you get to August, things are being done as punch list type items. The engineer was not here day to day watching things.

Their intention tonight was to bring a list of recommendations (outlined below). Some of these recommendations, Mr. Billesbach stated, are time sensitive because they need to get going on some improvements as it relates to the water loss. They want to get someone here and

get those going before the season starts. JEO has offered to split the cost of the repairs 50% up to total amount of \$15,000 to correct the issues (items 1 and 2 below).

They investigated the issues at hand and came to the following conclusions and recommendations:

Following investigations in 2019 and from the observations and data presented, it is surmised that the two potential sources of leakage are the caulked joint at the base of the gutter system and a leaky spigot. It is recommended that the caulk around the base of the gutter system be removed. If large voids are identified in the grout behind the caulk, a non-shrinking grout system should be installed to fill voided areas. A crystallization waterproofing coating could be applied along the entire joint. Finally, new caulking should be applied after the grout and coatings have fully cured.

1. Repair/replace deck spigot; estimated cost of \$5,000.00 (They do not have a formal estimate for this.)
2. Remove and replace caulk at gutter joint:
  - Gutter caulking \$17,000 (from received quotation – Leak Investigators)
  - Grout under Gutter \$7,500 (opinion of cost)
3. We recommend further monitoring of the gutter elevations. JEO proposes to re-survey the gutter elevations this spring to observe whether there has been any movement.
4. JEO recommends annual monitoring and repair of other caulked joints within the pool. These joints are a maintenance item that should be inspected annually for signs of caulking failure evident by caulk pulling away from the concrete. Any failed caulking should be stripped back to where it is holding strong and new backer rod and caulk installed. A cover coat of paint is optional to match the other areas of the pool.

Councilmember Woehler did not think this was fixing the problem. He did not think the City got the pool it paid for.

Councilmember Eischeid stated he would much rather spend \$15,000 right now to stop losing 4 gallons per minute, and if it reduces it down to 1 gallon per minute, that is a win, but it is a temporary win.

Mr. Protzman stated you have two issues – and they are not connected to each other. Mr. Woehler wants to make them connected to each other is the problem that he sees. If we do the caulk, we take care of the leak. Caulk is a maintenance item and should be done annually. The elevation and whether we have to adjust the gutter cap he sees as a separate issue. This would be a major expense and much more involved and who is responsible? He noted that JEO will not walk away.

Councilmember Brodersen stated she felt like there should be some legal ramifications.

After further discussion, Councilmember Eischeid made a motion, which was seconded by Councilmember Spieker, to cost-share with JEO Consulting Group, Inc., for the expense of the caulking and potential grout repair to the pool, and the spigot and shut off valve to the water fountain, not to exceed a total of \$15,000 for the City's share.

Councilmember Woehler reiterated why he would be voting against this motion.

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmembers Buck and Sievers who were absent, and Councilmember Woehler who voted Nay, the Mayor declared the motion carried.

Mayor Giese, Administrator Blecke, and Jim Frank, CEO Providence Medical Center, updated the Council on the COVID-19 pandemic. City facilities will be closing until further notice. City Hall doors will be locked and restricted to public contact. Utility payments are being encouraged to be made by using the drop boxes (located in both the front and back of City Hall), paying online, calling City Hall (402) 375-1733 with debit/credit card, or setting up a bank debit. Future Council meetings will be done by virtual means.

There being no further business to come before the meeting, Mayor Giese declared the meeting adjourned at 7:40 p.m.

**MINUTES  
CITY COUNCIL MEETING  
March 27, 2020**

The Wayne City Council met in special session by video/telephone conference pursuant to the Governor's Executive Order No. 20-03 on March 27, 2020, at 12:00 noon.

Mayor Cale Giese called the meeting to order, with the following in attendance: Councilmembers Dwaine Spieker, Terri Buck, Jennifer Sievers, Chris Woehler, Jason Karsky, Matt Eischeid and Jill Brodersen; Attorney Amy Miller; City Administrator Wes Blecke; and City Clerk Betty McGuire. Absent: Councilmember Jon Haase.

Notice of the convening meeting was given in advance by posting in three places on March 26, 2020, and a copy of the meeting notice and agenda were simultaneously given to the Mayor and all members of the City Council. All proceedings hereafter shown were taken while the Council convened in open session.

Mayor Giese advised the public that a copy of the Open Meetings Act was located on the southwest wall of the Council Chambers, as well as on the City's website, and was available for public inspection. In addition, he advised the public that the Council may go into closed session to discuss certain agenda items to protect the public interest or to prevent the needless injury to the reputation of an individual and if such individual has not requested a public hearing.

Mayor Giese requested Council consideration to appointing the following to the Board of Health:

- Mark McCorkindale, M.D.
- Marlen Chinn, Chief of Police
- Cale Giese, Mayor
- Jill Brodersen, Council President; and
- Kim Schultz, representing the Northeast Nebraska Public Health Department, to the Board of Health

Councilmember Brodersen made a motion, which was seconded by Councilmember Karsky, approving the following appointments to the Board of Health:

- Mark McCorkindale, M.D.
- Marlen Chinn, Chief of Police

- Cale Giese, Mayor
- Jill Brodersen, Council President; and
- Kim Schultz, representing the Northeast Nebraska Public Health Department, to the Board of Health

Mayor Giese stated the motion, and the result of roll call being all Yeas, with the exception of Councilmember Haase who was absent, the Mayor declared the motion carried.

An update on the COVID-19 Pandemic was given. Mayor Giese stated the Board of Health plans to meet on Monday to discuss the situation.

Discussion took place in regard to declaring a state of emergency and being able to issue citations for violating health directives.

Attorney Miller read from State Statute that the purpose and effect of a declaration of local emergency shall be to activate the response and recovery aspects of any and all applicable city, village, county or interjurisdictional agency operation plan(s) and to authorize the furnishing of aid and assistance of such plan(s). In her opinion, Council could issue a health directive on the 10-person rule without declaring a state of emergency.

Administrator Blecke stated his recommendation would be that the City follow some guidance from another agency. While we have the ability to do something on our own, we have to be able to back up why we did what we did.

Police Chief Chinn stated the Attorney General's office sent out a notice that stated if a local Board of Health or Governor does issue a directive health measure or a regulation, that another option for the City to have teeth after that has happened is to cite them for obstructing government operations once that is in place.

Administrator Blecke stated one of the four agencies (Governor, County Board of Health, Northeast Nebraska Public Health Department, or the City's Board of Health) needs to direct us through a health directive measure prior to the city declaring a state of emergency because that would then allow law enforcement to have some teeth into what they are doing.

Attorney Miller agreed that they (one of those four agencies) should make that declaration before the City declares a state of emergency, but if the Health Department or one of those other agencies comes out and issues a directive health measure, and if anyone refuses to comply with the same, we can cite/file under State Statute rather than city ordinance.

Attorney Miller advised the Council not to pass an ordinance until the City gets direction from one of the agencies above.

After discussion, it was determined that declaring an emergency would take place after a directive comes from one of the agencies named above.

There being no further business to come before the meeting, Mayor Giese declared the meeting adjourned at 12:36 p.m.



Vendor	Payable Description	Payment Total
ACES	ACES WIND ENERGY SERVICE AGMT	928.29
ALLEMANN, JULLIANE	REC SOCCER/RUN CLUB REFUND	60.00
AMAZON.COM, LLC	DVD'S/ALCOHOL PADS/MOUSE	500.33
AMERICAN BROADBAND NE COMM	TELEPHONE CHARGES	2,415.65
AMERITAS LIFE INSURANCE	AMERITAS ROTH	154.17
AMERITAS LIFE INSURANCE	POLICE RETIREMENT	2,359.30
AMERITAS LIFE INSURANCE	POLICE RETIREMENT 457 AMOUNT	72.00
AMERITAS LIFE INSURANCE	POLICE RETIREMENT 457 PERCENTAGE	89.61
ANKENY, DUSTIN	REC RUN CLUB REFUND	30.00
APPEARA	LINEN & MAT SERVICE	119.72
ARCHUNDIA, ALVARO	REC RUN CLUB REFUND	30.00
ARMSTRONG, SHELLY	REC SOCCER/RUN CLUB REFUND	60.00
BARGHOLZ, CHRISTINA	REC SOCCER REFUND	25.00
BARGSTADT, AMBER	REC SOCCER/RUN CLUB REFUND	120.00
BARNER, BECKY	REC RUN CLUB REFUND	30.00
BARTOS, COREY	REC SOCCER REFUND	60.00
BERNAL, HERWIN	REC RUN CLUB REFUND	30.00
BIG STONE TRANSPORTATION & LANDSCAPE SUPPLY	BALLFIELD LIME	1,226.16
BLACKSTONE PUBLISHING	E BOOKS	173.01
BLUE CROSS BLUE SHIELD	HEALTH PREMIUMS	52,148.99
BOHNERT, DAVID	REC SOCCER REFUND	30.00
BOLLES, DAMON	REC RUN CLUB REFUND	60.00
BONDHUS, ANNA	REC SOCCER REFUND	25.00
BORDER STATES INDUSTRIES, INC	FIRE RESISTANT CLOTHING/SPADE	398.53
BOSE, JULIE	REC SOCCER REFUND	30.00
BRAKENHOFF, BEN	REC SOCCER REFUND	30.00
BRINK, MARLON	REC SOCCER/RUN CLUB REFUND	120.00
BROGREN, SCOTT	REC SOCCER REFUND	60.00
BROWN PLUMBING	TEST PLUG	21.90
BROWN SUPPLY CO	WATER METER WASHER	152.00
CAMPOS, ANN	REC RUN CLUB REFUND	30.00
CARDENAS, MARIBEL	REC RUN CLUB REFUND	60.00
CARHART LUMBER COMPANY	FIXTURE/CORD/PAINT/VALVE/PIPE	744.46
CARRILLO, GLENDA	REC SOCCER REFUND	30.00
CARROLL, DAN	REC SOCCER REFUND	25.00
CENTURYLINK	TELEPHONE CHARGES	421.95
CENTURYLINK ASSET ACCOUNTING-BART	MOVE 4 PEDESTAL FOR TRAIL PROJECT	14,051.32
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	1,494.02
CITY EMPLOYEE	FIRE HALL RENTAL REFUND	200.00
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	1,127.59

Vendor	Payable Description	Payment Total
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	27.65
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	4.84
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	112.30
CITY EMPLOYEE	REC RUN CLUB REFUND	30.00
CITY EMPLOYEE	REC SOCCER/RUN CLUB REFUND	55.00
CITY EMPLOYEE	REC RUN CLUB REFUND	30.00
CITY EMPLOYEE	REC SOCCER REFUND	25.00
CITY EMPLOYEE	MEDICAL REIMBURSEMENT	82.90
CITY EMPLOYEE	REC SOCCER REFUND	30.00
CITY EMPLOYEE	REC RUN CLUB REFUND	30.00
CITY OF WAYNE	PAYROLL	77,372.18
CITY OF WAYNE	UTILITY REFUND	482.47
CLAUSSEN, HEATHER	REC RUN CLUB REFUND	30.00
CLAUSSEN, HEIDI	REC RUN CLUB REFUND	30.00
CLIFF, JOSH	REC SOCCER/RUN CLUB REFUND	55.00
COLONIAL RESEARCH	LIME BE GONE	190.62
CONTRERAS, SHERRY	REC SOCCER/RUN CLUB REFUND	80.00
COPY WRITE PUBLISHING	SHIPPING CHARGES	85.31
COTTONWOOD WIND PROJECT, LLC	WIND ENERGY	16,287.56
COUNTRY NURSERY INC	CITY HALL FALL CLEAN UP	309.50
DANIELS, AARON	REC RUN CLUB REFUND	30.00
DAS STATE ACCTG-CENTRAL FINANCE	TELECOMMUNICATION CHARGES	448.00
DAUM, ASHLEY	REC SOCCER REFUND	50.00
DEARBORN LIFE INSURANCE COMPANY	VFD INSURANCE	124.34
DEMCO INC	BOOK HOLDER FRAMES	633.78
DOBBINS, MELISSA	REC RUN CLUB REFUND	60.00
DOLEZAL, KRISTINA	REC SOCCER REFUND	30.00
DORING, BRENT	REC SOCCER REFUND	30.00
DUTTON-LAINSON COMPANY	HIGH VOLTAGE TERMINATORS/ELECTRIC BOX	6,920.78
EAKES OFFICE PLUS	COPY CHARGES	1,555.64
ECHO GROUP INC JESCO	POUCH	41.38
FAIRFIELD INN - KEARNEY	LODGING-DAVIS/MULLEN	419.80
FEHRINGER, MICHAEL	REC SOCCER/RUN CLUB REFUND	55.00
FIRST CONCORD GROUP LLC	FLEX FEES	2,797.80
FLOOR MAINTENANCE	BOWLS/CUPS/GLOVES	580.23
FLOOR MAINTENANCE	JANITORIAL SUPPLIES	286.75
FRANA, JENNIFER	REC SOCCER REFUND	50.00
FRANCIS, JEFF	REC RUN CLUB REFUND	30.00
FREDRICKSON OIL CO	DIESEL OIL	628.10
FRIENDS OF THE LIBRARY	AUDITORIUM DEPOSIT REFUND	200.00
GALE/CENGAGE LEARNING	BOOKS	148.14
GAMBLE, TANYA	REC RUN CLUB REFUND	30.00
GRAINLAND ESTATES LLC	TIF PRINCIPAL & INTEREST	7,707.70
GRAYBEAL, LISA	REC RUN CLUB REFUND	30.00
GREVE, RODNEY	REC SOCCER REFUND	25.00
GROSSENBURG IMPLEMENT INC	Z TRAK MOWER/EXHAUST FLUID/FILTERS	7,162.97
GUBBELS, JOE	REC SOCCER/RUN CLUB REFUND	85.00
HAASE, MINDY	REC SOCCER/RUN CLUB REFUND	55.00

Vendor	Payable Description	Payment Total
HALL, BRANDON	REC SOCCER/RUN CLUB REFUND	55.00
HALLE, KEVIN	REC SOCCER/RUN CLUB REFUND	60.00
HAMIK, KIM	REC SOCCER REFUND	25.00
HANAU, KRISTI	REC SOCCER REFUND	25.00
HANNEMAN, JENNA	REC SOCCER REFUND	25.00
HANSON, BRIAN	REC SOCCER REFUND	30.00
HARMER, JARET	REC SOCCER/RUN CLUB REFUND	60.00
HARRIS, TAYLOR	REC SOCCER REFUND	30.00
HASCHKE, MATT	REC RUN CLUB REFUND	30.00
HASEMANN, SCOTT	REC SOCCER/RUN CLUB REFUND	60.00
HAWKINS, INC	ZETAG EFFLUENT TREATMENT	1,647.77
HEISER, RYAN	REC SOCCER/RUN CLUB REFUND	85.00
HEITHOLD, BRYCE	REC SOCCER REFUND	30.00
HEITHOLD, JASON	REC SOCCER REFUND	60.00
HIGHT, TUCKER	REC SOCCER REFUND	30.00
HILAND DAIRY	SENIOR CENTER FOOD SERVICE	224.17
HIX, RYAN	REC RUN CLUB REFUND	30.00
HOFFMAN, TYLER	REC SOCCER REFUND	25.00
HOMETOWN LEASING	CITY HALL COPIER LEASE	433.87
HORIZON CONSTRUCTION	PAINT/ACCENT WOODWORK-AUDITORIUM	977.16
HURNER, CASEY	REC SOCCER/RUN CLUB REFUND	85.00
HYDRO OPTIMIZATION	WEATHER PROOF BOX	1,046.00
HYDRO TECH INC.	CASCADE BOTTLE HYDRO TEST	125.00
HYTREK LAWN	LIBRARY/SR CENTER FALL CLEAN UP	700.00
ICMA RETIREMENT-FIRST NATL BANK -MARYLAND	PAYROLL RETIREMENT	8,033.62
IOWA PUMP WORKS, INC.	LIFT STATION 2 PUMP BASE	1,281.63
IRS	FEDERAL WITHHOLDING	7.29
IRS	MEDICARE WITHHOLDING	15.38
IRS	FICA WITHHOLDING	65.80
IRS	MEDICARE WITHHOLDING	3,015.24
IRS	FEDERAL WITHHOLDING	9,468.91
IRS	FICA WITHHOLDING	12,892.88
JASON SEARS FLOORING	LOCKER ROOM FLOORING/ADHESIVE REMOVAL/CLEANER	6,061.97
JECH, ADAM	REC SOCCER REFUND	30.00
JECH, LEAH	REC SOCCER REFUND	25.00
JEO CONSULTING GROUP	MASTER SERVICE AGMT/NE ST/TRANSMISSION MAIN	6,381.65
JINEZ, JUAN	REC RUN CLUB REFUND	30.00
JOHNSON, ANDY	REC SOCCER REFUND	30.00
JOHNSON, JOSH	REC SOCCER REFUND	60.00
JOHNSON'S PLUMBING & HEATING	BOILER REPAIRS	256.00
JONES, NICHOLE	REC SOCCER REFUND	30.00
JUNCK, DWAIN	REC RUN CLUB REFUND	30.00
KAI, ALLISON	REC SOCCER REFUND	30.00
KAY PARK REC CORP	ALUMINUM TABLE PLANKS	623.00
KENNEDY, TIFFANY	REC SOCCER/RUN CLUB REFUND	60.00
KNEIFL, SCOTT	REC RUN CLUB REFUND	30.00

Vendor	Payable Description	Payment Total
KOCH, KILEY	REC SOCCER REFUND	30.00
KRAMER, BRETT	REC RUN CLUB REFUND	60.00
KUESTER, AMBER	REC SOCCER/RUN CLUB REFUND	85.00
KUTCHA, ANDY	REC RUN CLUB REFUND	30.00
LARSON, SARAH	REC SOCCER REFUND	30.00
LEAGUE OF NEBRASKA MUNICIPALITIES	MIDWINTER CONFERENCE	1,225.00
LEAK INVESTIGATORS, LLC	Gutter Sani-Tred 50% down Wayne Pool	7,770.00
LEATHERDALE, REBECCA	REC SOCCER REFUND	25.00
LEGLER, KELLY	REC RUN CLUB REFUND	30.00
LEU, SAMANTHA	REC SOCCER REFUND	30.00
LEY, MATT	REC RUN CLUB REFUND	30.00
LIPP, NICK	REC RUN CLUB REFUND	60.00
LOBERG, DAVID	REC SOCCER REFUND	30.00
LOPEZ, ERICA	REC SOCCER REFUND	30.00
MAIN STREET GARAGE, LLC	SHIFT CABLE BUSHING REPAIR	158.59
MARCO INC	COPIER LEASE	180.34
MCCARTHY, ERIKA	REC SOCCER REFUND	30.00
MCGUIRE, CHRIS	REC RUN CLUB REFUND	60.00
MCINTOSH, SCOTT	REC SOCCER/RUN CLUB REFUND	85.00
MCLAUGHLIN, LINDSAY	REC SOCCER REFUND	30.00
MCMANIGAL, MELANIE	REC RUN CLUB REFUND	30.00
MELLEN & ASSOCIATES, INC.	FLAPPER	510.94
MEYER, KELLY	REC RUN CLUB REFUND	30.00
MILLER LAW	ATTORNEY FEE	5,416.67
MILLER, GRANT	REC RUN CLUB REFUND	30.00
MOHLFELD, KATHY	REC RUN CLUB REFUND	30.00
MOORMEIER, KARI	REC RUN CLUB REFUND	30.00
MOSTEK, SCOTT	REC SOCCER/RUN CLUB REFUND	55.00
MUIR, NICK	REC SOCCER REFUND	30.00
NE DEPT OF REVENUE	STATE WITHHOLDING	4,066.30
NE DEPT OF REVENUE	STATE WITHHOLDING	7.00
NE DEPT OF TRANSPORTATION	MAINTENANCE AGREEMENT 72	4,935.00
NE PUBLIC HEALTH ENVIRONMENTAL LAB	FLUORIDE/COLIFORM TESTING	558.00
NE RURAL WATER	ANNUAL CONFERENCE	485.00
NELSON, DAWN	REC SOCCER REFUND	25.00
NELSON, JARED	REC SOCCER REFUND	25.00
NELSON, TATE	REC RUN CLUB REFUND	30.00
NIEMANN, ANDREA	REC SOCCER REFUND	30.00
NILES, TYSON	REC SOCCER REFUND	30.00
NOLTE, SHANDI	REC SOCCER REFUND	60.00
NORTHEAST NE ECONOMIC DEV DIST	19-PW-017 JANUARY SERVICES	600.00
NORTHEAST NE INS AGENCY INC	PROPERTY INSURANCE	89,387.00
ONDERSTAL, KRISTY	REC SOCCER REFUND	30.00
ORTIZ, SAUL	REC SOCCER REFUND	50.00
PAC N SAVE	SENIOR CENTER NOON MEAL SUPPLIES	1,006.16
PATEFIELD, DAVID	REC RUN CLUB REFUND	60.00

PETERSEN, KELLY	REC SOCCER/RUN CLUB REFUND	55.00
PIPER, JEFF	REC SOCCER REFUND	25.00
POLAND, LYNN	REC SOCCER REFUND	60.00
QHA CLEANING LLC	JANITORIAL CLEANING SERVICE	2,000.20
RAGER, ALISSA	REC SOCCER REFUND	30.00
RAHN, MEGAN	REC SOCCER REFUND	60.00
RAULSTON, JUSTIN	REC RUN CLUB REFUND	30.00
RETHWISCH, ANGIE	REC SOCCER REFUND	30.00
ROCKHILL, DAN	REC SOCCER/RUN CLUB REFUND	55.00
ROEBER, KYLE	REC SOCCER REFUND	30.00
RONHOVDE, ANNE	REC SOCCER REFUND	25.00
SEVERSON, LANIE	REC SOCCER REFUND	30.00
SHARER, LIZ	REC RUN CLUB REFUND	30.00
SMITH, CHAD	REC SOCCER REFUND	25.00
SODEN, KELLI	REC SOCCER/RUN CLUB REFUND	85.00
SORENSEN, MATT	REC SOCCER REFUND	25.00
SPIEKER, DWAIN	REC SOCCER/RUN CLUB REFUND	60.00
STANGE, LEVI	REC SOCCER/RUN CLUB REFUND	75.00
STATE NEBRASKA BANK-PETTY CASH	PETTY CASH	427.62
STRAIGHT, DON	AUDITORIUM REFUND	150.00
STUBBS, AMBER	REC SOCCER REFUND	30.00
STURM, MIKE	REC SOCCER REFUND	25.00
SURBER, JEFF	REC SOCCER/RUN CLUB REFUND	90.00
TENTINGER, CRAIG	REC SOCCER REFUND	30.00
THOMPSON, JULIE	REC RUN CLUB REFUND	30.00
TIEDTKE, DAN	REC RUN CLUB REFUND	90.00
TRAUTMAN, LEVI	REC SOCCER REFUND	60.00
US FOODSERVICE, INC.	SENIOR CENTER NOON MEAL SUPPLIES	1,583.56
VALENZUELA, YESENIA	REC SOCCER REFUND	30.00
VIAERO WIRELESS	CELL PHONE	67.60
VICK, AMANDA	REC RUN CLUB REFUND	30.00
VIRGIL, LUKE	REC SOCCER REFUND	30.00
WAYNE AREA ECONOMIC DEVELOPMENT	CONTRIBUTION	8,222.92
WEMHOFF, ANTHONY	REC SOCCER REFUND	25.00
WIELAND, ALEX	REC SOCCER REFUND	25.00
WIESELER, SHEILA	REC RUN CLUB REFUND	30.00
WINDOM RIDGE	TIF PRINCIPAL & INTEREST	10,006.32
WISEMAN, TOM	REC SOCCER REFUND	60.00
WOEHLER, MARCI	REC SOCCER/RUN CLUB REFUND	55.00
WOEHLER, MATT	REC RUN CLUB REFUND	30.00
WYNIA, KATIE	REC RUN CLUB REFUND	30.00
YOUNG, TODD	REC SOCCER/RUN CLUB REFUND	80.00
ZACH, MARK	REC RUN CLUB REFUND	30.00
ZARATE, VICTOR	REC RUN CLUB REFUND	30.00
ZAVALA, LAURA	REC SOCCER REFUND	50.00
ZISKA, BRANDON	REC SOCCER/RUN CLUB REFUND	55.00

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Grand Total: 401,356.30

**49-14,102. Contracts with government bodies; procedure; powers of certain cities; purpose.**

(1) Except as otherwise provided by law, no public official or public employee, a member of that individual's immediate family, or business with which the individual is associated shall enter into a contract valued at two thousand dollars or more, in any one year, with a government body unless the contract is awarded through an open and public process.

(2) For purposes of this section, an open and public process includes prior public notice and subsequent availability for public inspection during the regular office hours of the contracting government body of the proposals considered and the contract awarded.

(3) No contract may be divided for the purpose of evading the requirements of this section.

(4) This section shall not apply to a contract when the public official or public employee does not in any way represent either party in the transaction.

(5) Notwithstanding any other provision of this section, any city of the metropolitan, primary, or first class may prohibit contracts over a specific dollar amount in which a public official or a public employee of such city may have an interest.

(6) This section prohibits public officials and public employees from engaging in certain activities under circumstances creating a substantial conflict of interest. This section is not intended to penalize innocent persons, and a contract shall not be absolutely void by reason of this section.

(7) This section does not apply to contracts covered by sections 49-14,103.01 to 49-14,103.06.

**Source:** Laws 1976, LB 987, § 102; Laws 2005, LB 242, § 46; Laws 2014, LB364, § 1.

**LB840 Loans**

	Principal	Interest	Interest rate
Rainbow World	\$ 312.50	\$ -	0%
Geno's	\$ 319.27	\$ 33.22	3%
Leseberg	\$ 185.45	\$ 56.25	3%
Leseberg	\$ 222.22	\$ -	0%
Claussen- Swans	\$ 121.63	\$ 42.49	3%
Johntie Byrd	\$ 127.19	\$ 87.22	2.63%
Retail Reclaimers	\$ 1,190.47	\$ -	0%
Otte Const	\$ 2,642.85	\$ -	0%
Rod Lutt	\$ 5,861.53	\$ 805.32	3%
Crossroads- Atoll Prod	\$ 3,350.66	\$ 930.07	3%
Wayne Event Center	\$ 10,500.00	\$ 10,528.77	3%
DRJ LLC	\$ 10,568.21	\$ 2,225.57	3%
Talon Capital	\$ 29,083.71	\$ 7,125.00	2.85%
Pat Garvin	\$ 2,666.67	\$ -	0%
Jorgensen	\$ 10,470.82	\$ 2,679.55	3%
Rodney Hefti	\$ 3,333.33	\$ -	0%
Pat Garvin	\$ 666.66	\$ -	0%
Winning Finish	\$ 2,930.76	\$ 476.30	3%
RBDK-Burrows	\$ 4,705.10	\$ 1,405.04	3%
Sand Creek	\$ 12,926.67	\$ -	0%
Wayne Hospitality Group	\$ 16,666.67	\$ -	0%
Wayne Country Club	\$ 14,000.00	\$ -	0%

\*Payments start 5/1/21

\*Annual payment of \$10,500 through March 2020 then annual payment of \$29,321.73 effective March 2021

\*In default

\*Payments start 5/1/20

**Assessments- Penalty rate of 14% if not paid by due date**

	Due Date	Principal	Interest	Interest rate
455- Western Ridge	3/31/2020	\$ 292.32	\$ 72.17	3.5%
456- Western Ridge	3/31/2020	\$ 292.31	\$ 72.17	3.5%
458- Western Ridge	3/31/2020	\$ 1,023.23	\$ 252.62	3.5%
459- Western Ridge	3/31/2020	\$ 3,946.20	\$ 974.26	3.5%
495- Western Ridge	3/31/2020	\$ 1,917.47	\$ 459.32	3.5%
496-Josh Hopkins	3/31/2020	\$ 3,154.18	\$ 755.56	3.5%
497-4th Jug	3/31/2020	\$ 17,386.76	\$ 3,017.54	3%
331- Arnies	5/30/2020	\$ 406.88	\$ 31.88	4.25%
332- Arnies	5/30/2020	\$ 271.25	\$ 21.25	4.25%
333- Larry Wells	5/30/2020	\$ 203.44	\$ 15.94	4.25%
334-Homestead Capital	5/30/2020	\$ 282.78	\$ 22.15	4.25%
339- Earnest Ping	5/30/2020	\$ 188.25	\$ 14.75	4.25%
340-Ken Kwapioski	5/30/2020	\$ 325.50	\$ 25.50	4.25%
344- Jason Schulz	5/30/2020	\$ 203.44	\$ 15.94	4.25%
346- Julie Cull	5/30/2020	\$ 203.44	\$ 15.94	4.25%
302- Monte Boyer	7/21/2020	\$ 452.69	\$ 138.32	4%
307-Scott Barg	7/21/2020	\$ 233.86	\$ 71.46	4%
308-Mark Ganseboom	7/21/2020	\$ 233.32	\$ 70.92	4%

310- Lance Webster	\$	234.07	7/21/2020	\$	162.55	\$	71.52	4%
313-Wm Jammer	\$	175.56	7/21/2020	\$	162.55	\$	13.01	4%
314-Lou Benscoter	\$	233.86	7/21/2020	\$	162.40	\$	71.46	4%
315-Tim Schaefer	\$	233.86	7/21/2020	\$	162.40	\$	71.46	4%
316-Gary Nichols	\$	467.93	7/21/2020	\$	324.95	\$	142.98	4%
318-Mark Klassen	\$	130.65	7/21/2020	\$	90.73	\$	39.92	4%
319-Dustin Soden	\$	283.07	7/21/2020	\$	196.58	\$	86.49	4%
320-Les Lage	\$	253.10	7/21/2020	\$	196.58	\$	56.52	4%
360- Kelby Herman	\$	1,557.52	9/5/2020	\$	1,216.81	\$	340.71	3.5%
362-Fourth Generation Family	\$	3,705.08	9/5/2020	\$	2,894.59	\$	810.49	3.5%
368- Kelby Herman	\$	424.14	9/5/2020	\$	331.36	\$	92.78	3.5%
370-Fourth Generation Family	\$	1,004.45	9/5/2020	\$	784.72	\$	219.73	3.5%
379- Kelby Herman	\$	412.38	9/5/2020	\$	322.17	\$	90.21	3.5%
381-Fourth Generation Family	\$	952.36	9/5/2020	\$	744.03	\$	208.33	3.5%

**RESOLUTION NO. 2020-16**

**A RESOLUTION APPROVING AGREEMENT WITH TOM HANSEN, CERTIFIED PUBLIC ACCOUNTANT, TO COMPILE FINANCIAL INFORMATION REGARDING THE COVID-19 PANDEMIC.**

WHEREAS, the Wayne City Council is desirous of entering into an agreement with Tom Hansen, Certified Public Accountant, for professional accounting services to compile financial information regarding expenses incurred as a result of the COVID-19 Pandemic; and

WHEREAS, a proposal has been requested and received from Tom Hansen, Certified Public Accountant, to provide said accounting services; and

WHEREAS, the fee for said accounting services will be \$100.00 per hour, plus out-of-pocket expenses; and

WHEREAS, staff recommendation is to accept the proposal of Tom Hansen, Certified Public Accountant, for professional accounting services to compile financial information regarding expenses incurred as a result of the COVID-19 Pandemic.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Wayne, Nebraska, that the agreement with Tom Hansen, Certified Public Accountant, for professional accounting services to compile financial information regarding expenses incurred as a result of the COVID-19 Pandemic, be accepted as recommended, and the Mayor be and he hereby is hereby authorized to execute the agreement for said services on behalf of the City.

PASSED AND APPROVED this 7<sup>th</sup> day of April, 2020.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

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

**TOM HANSEN**  
**Certified Public Accountant**

305 Main Street  
Wayne, NE 68787  
Telephone (402) 833-5417  
Fax (402) 833-5418

---

City of Wayne  
Wayne, Nebraska

I agree to provide accounting services for the City of Wayne, Nebraska to prepare financial information regarding the COVID-19 pandemic for possible FEMA reimbursement. It is your responsibility to provide me with the necessary information to complete this engagement.

Fees for my accounting services will be based upon the amount of time required at a rate of \$100 per hour plus out-of-pocket expenses.

Sincerely,  
Tom Hansen  
Certified Public Accountant

RESPONSE:

This letter correctly sets forth the understanding of the City of Wayne, Nebraska.

Officer signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**RESOLUTION NO. 2020-17**

**A RESOLUTION APPROVING LOWER ELKHORN NRD MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN.**

**WHEREAS**, the Federal Disaster Mitigation Act of 2000 was signed into law on October 30, 2000, placing new emphasis on state and local mitigation planning for natural hazards and requiring communities to adopt a hazard mitigation action plan to be eligible for pre-disaster and post-disaster federal funding for mitigation purposes; and

**WHEREAS**, a Multi-jurisdictional Hazard Mitigation Plan was prepared by the Lower Elkhorn Natural Resources District, with assistance from JEO Consulting Group, Inc., of Lincoln, Nebraska; and

**WHEREAS**, the purpose of the mitigation plan was to lessen the effects of disasters by increasing the disaster resistance of the Natural Resources District and participating jurisdictions located within the planning boundary by identifying the hazards that affect the City of Wayne and prioritize mitigation strategies to reduce potential loss of life and property damage from those hazards; and

**WHEREAS**, FEMA regulations require documentation that the plan has been formally adopted by the governing body of the City of Wayne in the form of a Resolution and further requesting approval of the plan at the Federal Level.

**NOW, THEREFORE, BE IT RESOLVED** by the Mayor and Council of the City of Wayne, Nebraska, that the governing body of the City of Wayne does herewith adopt the Lower Elkhorn Natural Resources District Multi-Jurisdictional Hazard Mitigation Plan in its entirety.

PASSED AND APPROVED this 7<sup>th</sup> day of April, 2020.

THE CITY OF WAYNE, NEBRASKA,

By \_\_\_\_\_  
Mayor

ATTEST:

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



March 16, 2020

RE: Lower Elkhorn Natural Resources District Hazard Mitigation Plan (HMP) Update

To Whom It May Concern:

Thank you for your participation throughout the last year with the Lower Elkhorn NRD Hazard Mitigation Plan. The plan has been reviewed and approved by the state and FEMA. Now is the time for your jurisdiction to adopt the plan locally. **Your jurisdictional governing body must adopt the plan via resolution to finalize your participation in the Lower Elkhorn NRD Hazard Mitigation Plan.** Attached is an example resolution that you may use or adapt to fit your local needs.

You may review the final plan at the project website: <https://jeo.com/lenrd-hmp>.

Once you adopt this plan, your jurisdiction will become eligible for project grant funding to assist with implementation of actions in this plan. The adopted resolution should be returned to JEO Consulting Group, Inc. for submittal to NEMA/FEMA. **You should send the signed, adopted resolutions to JEO via email at [kdietrich@jeo.com](mailto:kdietrich@jeo.com); fax to (402) 435-4110; or mail to:**

Karl Dietrich  
JEO Consulting Group, Inc.  
2700 Fletcher Avenue  
Lincoln, Nebraska 68504

Thank you again for your participation! If you have questions about approving the resolution or about the plan, please contact either myself at (402) 474-8768 or [pluebbert@jeo.com](mailto:pluebbert@jeo.com) or Karl Dietrich at (402) 742-7213 or [kdietrich@jeo.com](mailto:kdietrich@jeo.com).

Sincerely,

A handwritten signature in blue ink that reads 'Phil Luebbert'.

Phil Luebbert  
Project Coordinator

**RESOLUTION NO. 2020-18**

**A RESOLUTION ACCEPTING PROPOSAL AND AWARDING CONTRACT ON THE "BRESSLER PARK STAGE CANOPY PROJECT" FOR THE CITY OF WAYNE, NEBRASKA.**

WHEREAS, two proposals were received on the "Bressler Park Stage Canopy Project;" and

WHEREAS, the proposals have been reviewed by Council President Jill Brodersen and City staff; and

WHEREAS, Council President Brodersen is recommending that the proposal outlined below be accepted as recommended.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the City of Wayne, Nebraska, that they find and declare that the proposal for the "Bressler Park Stage Canopy Project," as submitted by the following company:

<u>Bidder</u>	<u>Amount</u>
Commercial Recreation Specialists Verona WI	\$24,830.00

and filed with the City Clerk in accordance with the general terms calling for the proposals for the furnishing of labor, tools, materials, and equipment required for said project in the City of Wayne, Nebraska, be and the same is hereby accepted.

PASSED AND APPROVED this 7<sup>th</sup> day of April, 2020.

CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

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



Jill Brodersen, AIA

ARCHITECT

March 31, 2020

Mayor Cale Giese  
City Council

Re: **Bressler Park Stage Canopy Comparison**

I would propose a comparison of the two canopy proposals:

Shade System as sold by Commercial Recreation Specialists and USA Shade sold by Crouch Recreation.

Shade System price is \$24,830 includes freight and an electrical access panel cost of \$1,700. Lead time 6-8 weeks.

USA Shade price is \$21,080 includes freight but not the electrical access panel. Lead time 12 weeks.

The difference in price (excluding the access panel) is \$2050.

From what I can tell, the differences between the two are materials, assembly and warranty.

Shade System has a much easier shade to pole attachment – cleaner looking and easier for the city crew to install and take down every year. The sails come pre-assembled with the steel cabling system already in them. The metal parts and cables are all stainless steel including the poles which are painted (powder coat).

Shade System has a 10 year non-prorated warranty compared to USA Shade which is 6 years pro-rated to 10.

I feel like for the better warranty, assembly, poles, and the shade attachment that we should go with Shade System.

Note, our city crews will be installing the structure, including foundation, posts, sails, and electrical.

Sincerely,

Jill Brodersen



**COMMERCIAL  
RECREATION  
SPECIALISTS**

**Quote**

Quote Number: 0014983  
Quote Date: 2/21/2020

Commercial Recreation Specialists  
807 Liberty Dr., Ste 101  
Verona, WI 53593-9160  
Ph: (877) 896-8442 Fx: (608) 848-8782  
43-2046045

<b>Bill To :</b>
City of Wayne, NE 306 Pearl Street Wayne, NE 68787

<b>Ship To :</b>
City of Wayne, NE Bressler Park W 10th Street Wayne, NE 68787

<b>Customer ID</b>	<b>Customer PO Number</b>	<b>Sales Rep Name</b>
CITY OF WAYNE		Patrick Pierce
<b>Valid Through</b>	<b>Shipping Method</b>	<b>Payment Terms</b>
3/23/2020	BESTWAY	50% at accept; 50% prior ship

Item	Description	Quantity	Unit Cost	Amount
/99999 SHADE	Shade Structures Custom Sail Shade System consisting of (5) columns and (2) fabric canopies per attached drawing - Surface Mount	1.00	19,640.00	19,640.00
/99999 SHADE	Shade Structures Electrical Access	2.00	850.00	1,700.00
<p><b>NOTES:</b> Above pricing does not include receiving, off-loading, storage, installation, concrete supplies, anchoring hardware, excavation, or site work Surface Mount columns are recommend to be installed on newly poured concrete piers per the product's installation instructions Current shipping schedule is 6 - 8 weeks from date of order</p>				

**Note:** This quote is valid for 30 days. Please review the above information carefully. It defines your order as we understand it. If satisfactory, please sign and date below and fax to 608-848-8782, email back to your sales representative, or send a copy with your deposit to the address above. We will begin processing your order upon receipt of both your DEPOSIT AND APPROVAL SIGNATURE, per the terms indicated on your quote above. Additional surcharges may apply depending on final delivery address, actual delivery requirements and payment method. Please note that a 3% convenience fee may apply to credit card orders.

Net Order: 21,340.00  
Freight: 3,490.00  
Sales Tax: 0.00  
**Order Total: 24,830.00**

Customer Acceptance: \_\_\_\_\_ Date: \_\_\_\_\_



## TECHNICAL SPECIFICATIONS:

**GENERAL:** Shade Systems products are designed and manufactured to the most exacting specifications by skilled craftsmen and certified by Professional Engineers for structural soundness of designs. All Shade Systems are shipped knocked-down, with complete assembly instructions, and ready for easy in-field installation.

**ENGINEERING DATA:** Structures are engineered to meet or exceed the requirements of the International Building Code (IBC), with the following specifications:

Wind speed	Frame only:	165 m.p.h.
	Frame w/canopy:	90 m.p.h.
Live Load:	None	
Snow Load:	None	

Optional designs with greater wind speeds, live loads, and snow loads are available.

**MATERIAL:** All materials shall be structurally sound and appropriate for safe use. Product durability shall be ensured by the use of corrosion-resistant metals such as stainless steel, and coatings such as zinc-plating, galvanizing, and powder-coating on steel parts, subject to the Project-Specific requirements below. Fabrics used shall include UV-stabilizers and fire retardants for longevity and safety.

**WELDMENTS:** All tubing members are factory-welded by Certified Welders to American Welding Society (AWS) specifications and to the highest standards of quality workmanship. Weldments are finished with a zinc-rich galvanized coating. No field welding is required in the assembly of Shade Systems products.

**POSTS, STRUCTURAL FRAME TUBING, AND HARDWARE:** All tubing used shall be cold-formed and milled per ASTM A-135 and ASTM A-500. Material testing is in accordance with ASTM E-8. Minimum yield is 40,000 psi with a minimum tensile strength of 45,000 psi on all posts. All tubing shall be pre-cut to appropriate lengths, and where applicable all outside surfaces shall be galvanized, with an interior corrosion-resistant zinc-rich coating. Where required, support pipes shall be schedule 40 hot-dip galvanized or powder-coated black steel. All fastening hardware shall be stainless steel.

**ARCHITECTURAL POWDER-COATING PROCESS:** All powder-coated parts undergo a rigorous multi-step process to ensure colorfastness and durability per the specific sequential steps itemized below. All parts are completely sandblasted, pre-treated, and coated with coastal primer prior to powder coating. Powder-coating is then electrostatically applied and oven-cured at 375 to 425 degrees Fahrenheit. Powders shall meet or exceed ASTM standards for Adhesion, Hardness, Impact, Flexibility, Overbake Resistance, and Salt Spray Resistance. Colors shall be specified.

The following seven (7) specific steps shall occur in sequence:

1. **Sandblasting.** All powder-coated parts shall be completely sandblasted with the use of 80 grit garnet abrasives.
2. **Mechanical smoothing.** A traditional mechanical method shall be used for removing remaining foreign matter for surface preparation by use of sanding, grinding, and rounding rough edges to smoothness.
3. **Initial Surface Preparation.** A heavy-duty liquid cleaner such as *Calvary Industries Inc Cal Clean 675* shall be applied for initial surface preparation.
4. **Corrosion resistant Coating.** A liquid detergent iron phosphate, such as *Calvary Industries Inc, Cal Prep 63*, shall be applied, thereby resulting in a superior quality corrosion resistant coating.
5. **Final Surface Preparation.** All parts shall then be sealed using a reactive, non-chrome sealer product such as *Calvary Industries, Advantech S1488E Sealer*. The sealer enhances corrosion protection and increases paint adhesion, effectively increasing salt spray hours on all metal substrates.
6. **Coastal Primer.** Prior to powder-coating, a rust inhibiting coastal primer shall be applied on all parts, such as *PPG Envirocron™*. The coastal primer coating provides a combination of good physical and chemical resistance properties, and is the ideal solution for smooth, low-bake durability and physical property requirements for the most demanding environments.

Primer attributes:

Gloss (ASTM D-523):	0-10 @ 60°
Adhesion (ASTM D-3359):	100% (5B Pass)
Hardness (ASTM D-3363):	2H Pencil (Eagle)
Impact Resistance (ASTM D-2794):	80 In.-lbs. Direct
Conical Mandrel (ASTM D-522):	1/8" - No Cracking
Salt Spray (ASTM B-117):	4000 Hours Pass
1000 Hours (degrease only)	
Humidity (ASTM D-1735):	100F, 100% RH-2000+ Hours
Scab Corrosion (SAE-J2334):	120 Cycles - Pass
Film Properties (Thickness):	2 mils

7. **Application of Powder-Coating.** Lastly, *PPG Envirocron™ Ultradurable* powder coatings shall be used to provide a combination of excellent physical and chemical resistance properties, outstanding resistance to outdoor weathering, and a durable and uniform final coat.

Powder Coat Characteristics:

Gloss (ASTM D-523):	80 Minimum @ 20°
Gloss (ASTM D-523):	80 Minimum @ 60°
Adhesion (ASTM D-3359):	100% (5B Pass)
Hardness (ASTM D-3363):	2H Pencil (Eagle)
Impact Resistance (ASTM D-2794):	40 In.-lbs. Direct
20 In.-lbs. Reverse	
Conical Mandrel (ASTM D-522):	1/8" Mandrel - No Cracking
Salt Spray (ASTM B-117):	1000 Hours Pass
< 1/8" Scribe Creep	
No Blisters	
Humidity (ASTM D-1735):	1000 Hours Pass
< 1/16" Scribe Creep	
No Blisters	
Film Properties (Thickness):	3 mils

**STANDARD FOOTINGS:** Footings shall be designed per stringent International Building Code (IBC) for the specific structure. Columns will be provided as standard direct embedment or optional pier mount (anchoring hardware not supplied by Shade Systems). Other footing methods are available upon request.

**ROOFING:** Structural frames and/or fabric sails are designed by Shade Systems only for use with CoolNet™ polyethylene shade fabric. Fabric is attached to frame or columns using the Fastening Systems below in conjunction with vinyl covered minimum 1/4" diameter stainless steel cables. Cable fasteners are zinc-plated copper for maximum corrosion resistance.

**Use of non-vinyl covered or galvanized cable shall not be acceptable.**

**FASTENING SYSTEM (Frame Structure):** Coolnet™ Shade Fabric shall be delivered complete with independent cables pre-inserted in fabric hems. Each cable shall be looped and clamped at each end. Fastening System to consist of the Turn-N-Slide™ fastening device which is factory installed at each roof rafter corner. The Turn-N-Slide features a concealed mechanism which allows the attachment hook and sleeve at each rafter corner to move along a track in the rafter. Cables are attached to hook which is welded to the moving sleeve, thereby distributing tension evenly over rafters and not directly onto the mechanism. Rafters are sealed with no penetrations on the top side, thereby preventing water from entering. Such moving sleeve with hook allows the looped ends of each cable to slide over the hook when the sleeve is at its upper position, and then by turning the concealed fastener within the rafter, moves the sleeve with hook outward (toward end of rafter), thereby tensioning the cables and securing the fabric at the proper tautness. A locking cap is secured at the end of each rafter with a vandal-resistant bolt (special

wrench provided by the manufacturer) to prevent unauthorized access to the Turn-N-Slide mechanism. To remove the canopy, the cap is removed, and the mechanism rotated counter-clockwise. The sleeve with hook moves inward (toward peak of roof), thereby de-tensioning the cables, and allows fast removal of the canopy.

**Continuous one-piece cables, cables which are not independent per side and pre-looped and clamped at the factory, and/or cables which must be tensioned with the use of turnbuckles or tools not provided by the manufacturer are not acceptable. Structures which do not feature the Fastening Mechanism on each and every rafter or fastening mechanisms which do not feature a sealed top rafter and moving outer sleeve such as the Turn-N-Slide, are not acceptable.**

**FASTENING SYSTEM INSTRUCTIONAL VIDEO:** Product must be delivered complete with a minimum 5-minute instructional video on an USB Flash Drive. Video must show the viewer the exact procedure for removing and re-attaching canopy using an actual shade structure in the field. Submittals which do not include the video on an USB Flash Drive are not acceptable.

**FASTENING SYSTEM INSTRUCTIONAL VIDEO:** Fastening System Instructional Video: Product must be delivered complete with a minimum 5-minute instructional video on an USB Flash Drive. Video must show the viewer the exact procedure for removing and re-attaching canopy using an actual shade structure in the field. Submittals which do not include the video on an USB Flash Drive are not acceptable.

**CoolNet™ SHADE FABRIC:** Knitted of monofilament and tape construction high density polyethylene with Ultra-Violet (U.V.) stabilizers and flame retardant. Coolnet™ offers the ultimate combination of maximum sun protection, strength and durability to ensure maintenance free long-life performance. UV- Block Factor varies by standard color offered from 91% to 96%.

Coolnet™ Properties:

Nominal Fabric Mass:		Min. 340 g/m <sup>2</sup> // 10 oz/yd <sup>2</sup>
Fabric Thickness:	ASTM D5199-12	.06 inch
Temperature Range:		22 <sup>o</sup> F to 155 <sup>o</sup> F
Roll Width:		9 ft. 10 in.
Roll Length:		131 ft.
Tensile Strength:	ASTM D5034-09	Warp (202.4 lbf) / Weft (403.2 lbf)
Elongation:	ASTM D5034-09	Warp (112.3%) / Weft (50.8%)
Tongue Tear:	ASTM D2261-13	Warp (47.9 lbf) / Weft (50.1 lbf)
Burst Strength:	ASTM D6797-15	383.0 lbf
Flammability:	ASTM E-84 Class A	
Lead:		PASS
Phthalate:		PASS

**INSURANCE:** Manufacturer must show acceptable evidence of the following minimum insurance coverages, all written on the Occurrence Form:

- Commercial Product Liability/Completed Operations of \$1,000,000 per claim and \$2,000,000 aggregate.
- Professional Liability (Errors & Omissions) of \$2,000,000 per claim.
- And an additional \$3,000,000 umbrella coverage.

**WARRANTY:** Shade Systems, Inc. warrants that the equipment sold will conform in kind and quality to the specifications listed in the Order Acknowledgment and will be free of defects in workmanship or materials. Shade Systems further warrants:

- **LIMITED 20 YEAR WARRANTY** on all upright posts, cables, and tensioning plates against failure due to rust-through corrosion.
- **LIMITED 10 YEAR WARRANTY** on all CoolNet™ fabric and GORE™ TENARA® stitching thread against degradation, cracking or material breakdown resulting from ultra-violet exposure. This warranty excludes failure of fabric due to chemical erosion or as a result of flying objects.
- **LIMITED 1 YEAR WARRANTY** on powder-coating, or any other product or part not covered by one of the above warranties.

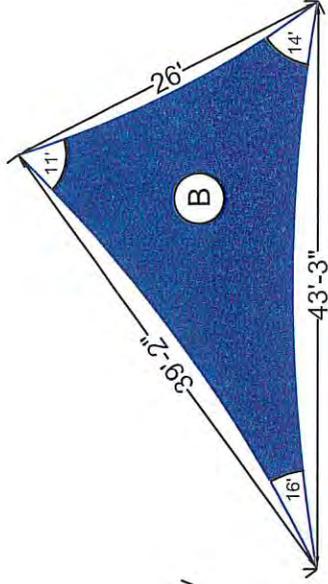
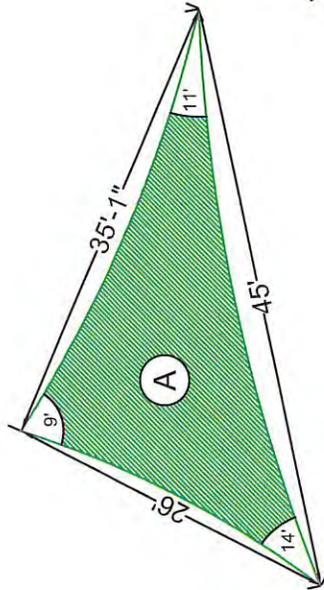
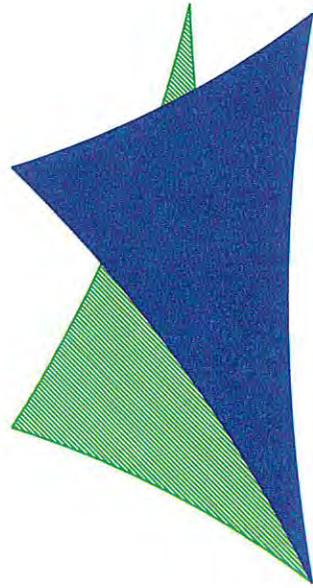
**The above warranties are not pro-rated.** Please refer to the full text of our complete Limited Warranty for additional details and other important warranty information.

**MANUFACTURER EXPERIENCE:** Bidder must show evidence of at least six (6) public municipal installations where manufacturer's product as proposed pursuant to this bid has been installed and has been in continuous use for a minimum of five (5) years each.

**MANUFACTURING FACILITY:** Bidder's products must be completely manufactured entirely in its own factory by its own employees, including powder-coating, thereby ensuring complete quality control. Bidder must certify that no aspect of its production – including powder-coating – is contracted out to third parties.

**ALTERNATE PRODUCT APPROVAL PROCEDURE:** Ten (10) day prior approval required for substitution of product design, materials and features specified above. Submittals must include plans, drawings, cut sheets, material data sheets, testing results and samples. Bids failing to meet this requirement will be deemed non-responsive.

(M) (N) (O)



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SCALE: NTS

FOOTINGS:

Surface Mount

DATE:

2/20/2020

LOCATION:

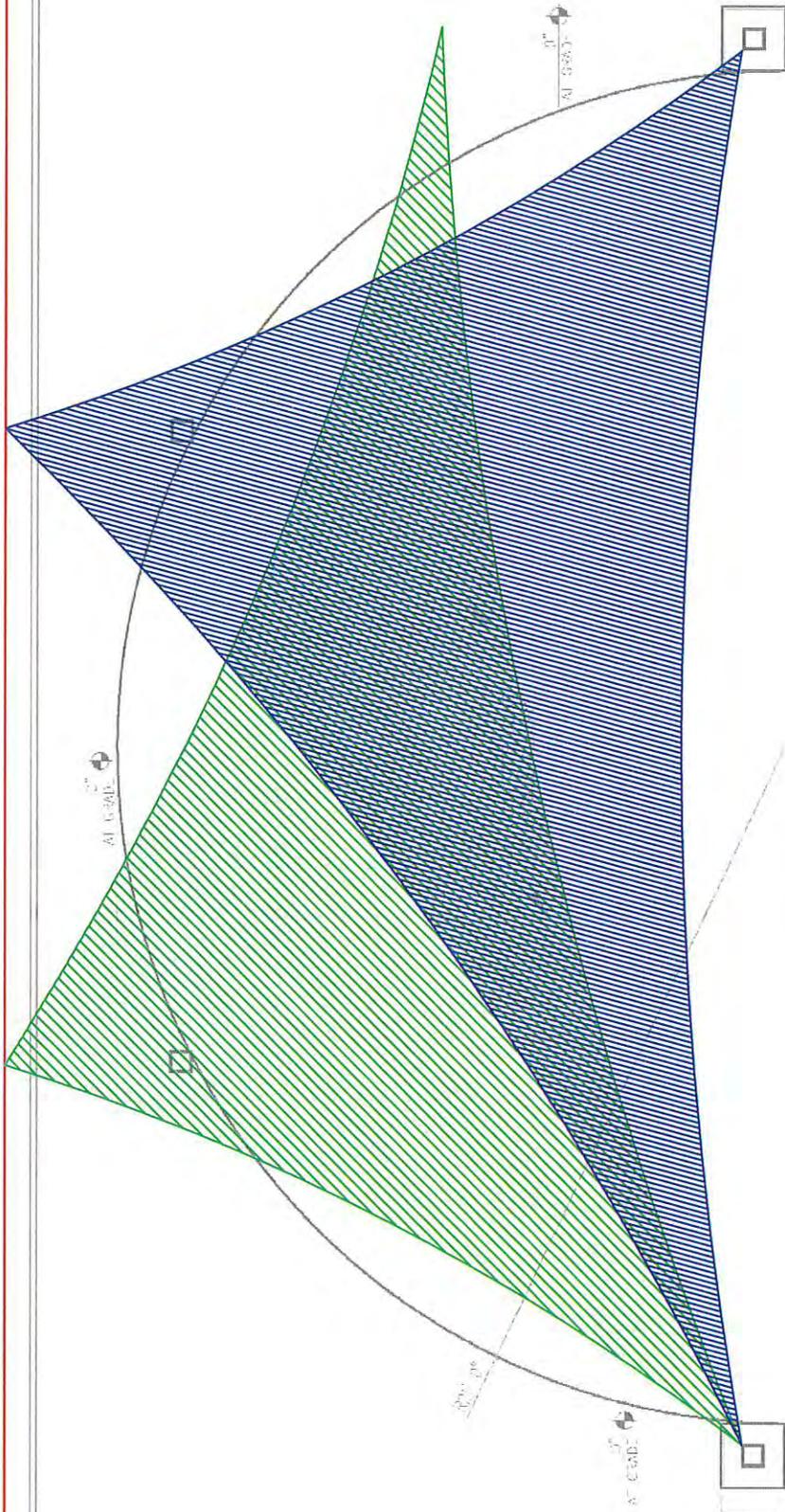
Wayne, NE

PROJECT:

Bressler Park

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SCALE: NTS

FOOTINGS:  
**Surface Mount**

LOCATION:  
**Wayne, NE**

PROJECT:  
**Bressler Park**

DATE:  
**2/20/2020**

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2435 South 156th Circle  
 Omaha, NE 68130  
 (402) 496-2669: Office (800) 747-7528: Toll Free  
 (402) 496-2018: Fax  
 www.crouchrec.com

Quotation

nicole@crouchrec.com • eric@crouchrec.com • julie@crouchrec.com • nick@crouchrec.com • dan@crouchrec.com

<b>Project:</b> Bressler Park Shade Proposal		<b>March 24, 2020</b>	
<b>Bill To:</b> City of Wayne		<b>Ship To:</b> TBD	
306 Pearl Street			
Wayne, Ne 68787			
<b>Contact:</b> Jill Brodersen		<b>Contact:</b>	
<b>Phone:</b> 402.369.1304		<b>Phone:</b>	
<b>Fax:</b>		<b>Email:</b> jbrodersen@cityofwayne.org	

Shipping		Terms - 50% on Order	
QTY	MODEL #	DESCRIPTION	PRICE EA. TOTAL
		<b>USA SHADE CLB1050080</b>	
1		Joined 3-Point Sail (Custom C2-12 Weeks)	\$ 18,480.00
		9/13/14' Entry, Includes Anchor Bolts	
		Tops to be Removed in the Winter	
		Sealed Engineered Drawings	\$ 850.00
			

Subtotal	\$	19,330.00
Freight (Est.)	\$	1,750.00
Sales Tax		Exempt
<b>Total</b>	<b>\$</b>	<b>21,080.00</b>

Signed by: Nicole Crouch  
 Crouch Recreation, Inc.

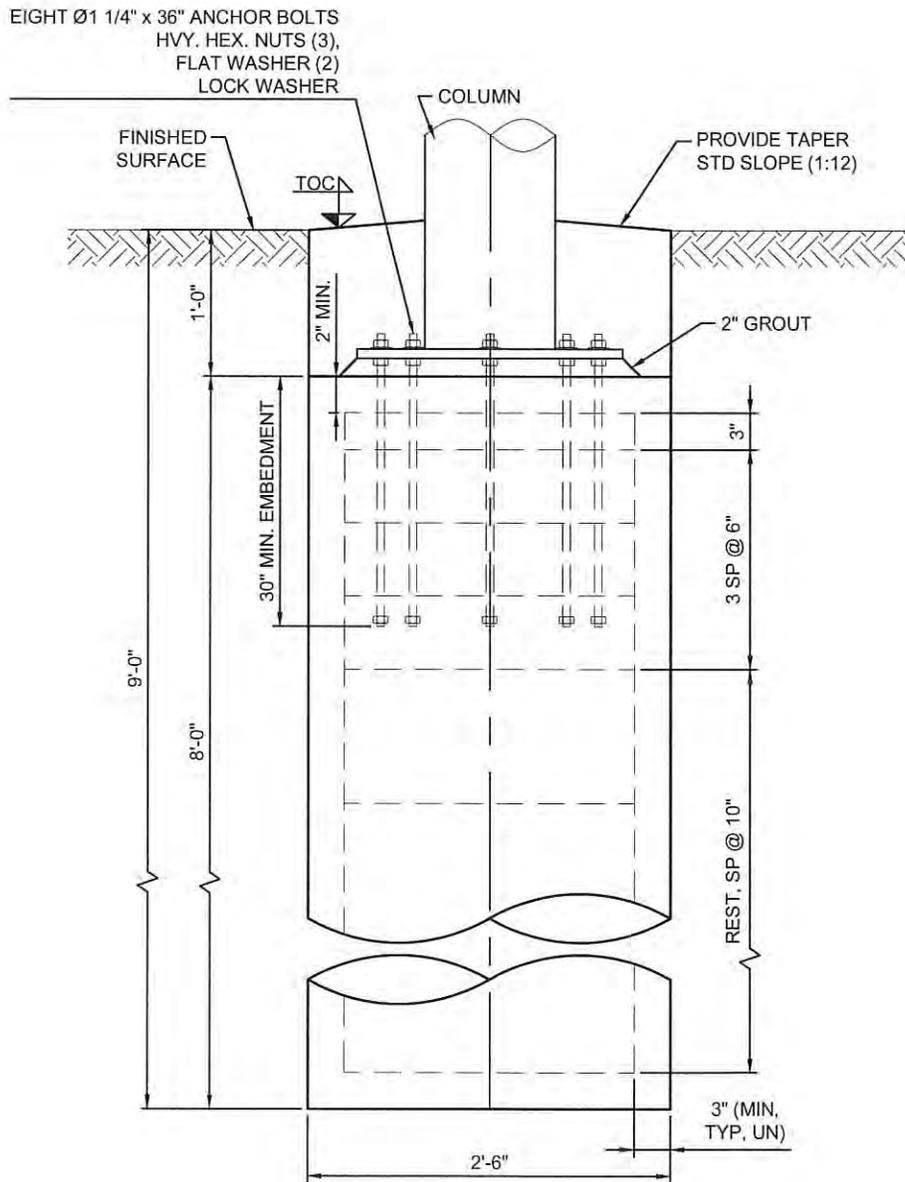
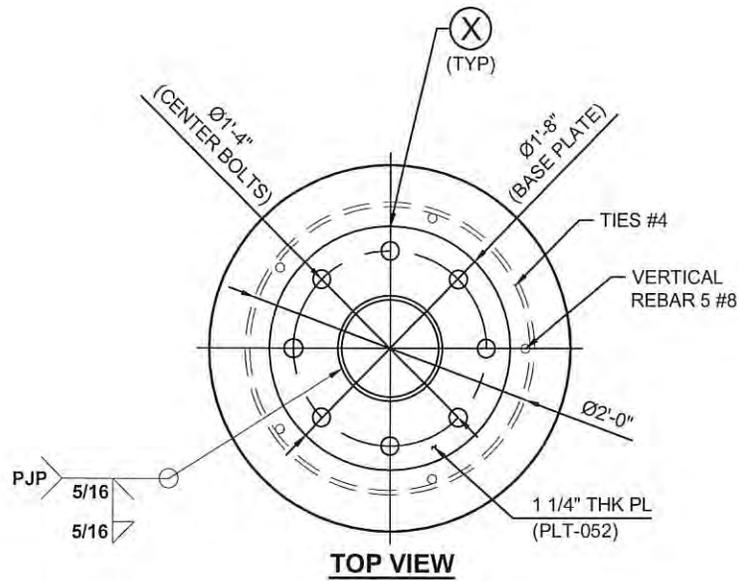
Accepted by: \_\_\_\_\_ Date \_\_\_/\_\_\_/2018

SERVICE CHARGES OF 3% OF THE TOTAL BILL WILL BE CHARGED ON ALL PAST DUE INVOICES

PLEASE INITIAL FOR ACKNOWLEDGEMENT \_\_\_\_\_

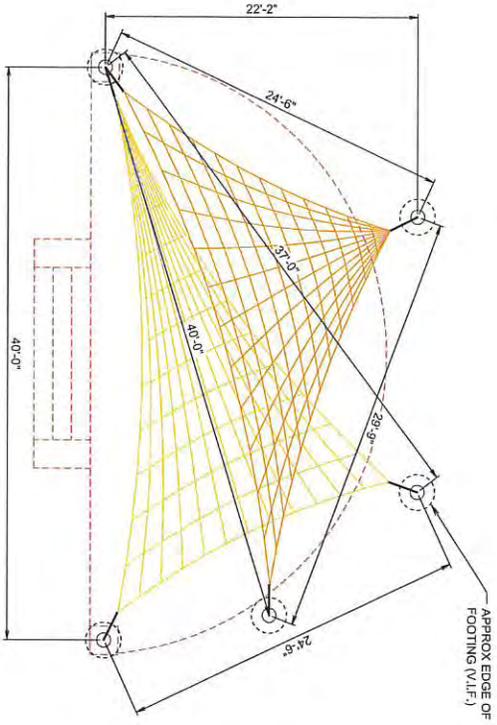
If applicable, please email a copy of your tax-exempt certificate and/or credit application.

Quotes are valid for 30 days

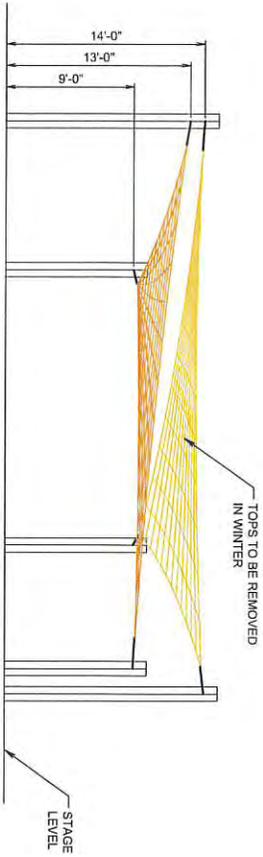


**FOOTING TYPE 09**  
 (RECESSED BASE PLATE, RBP)  
 (USE FOR CONSTRAINED CASES)

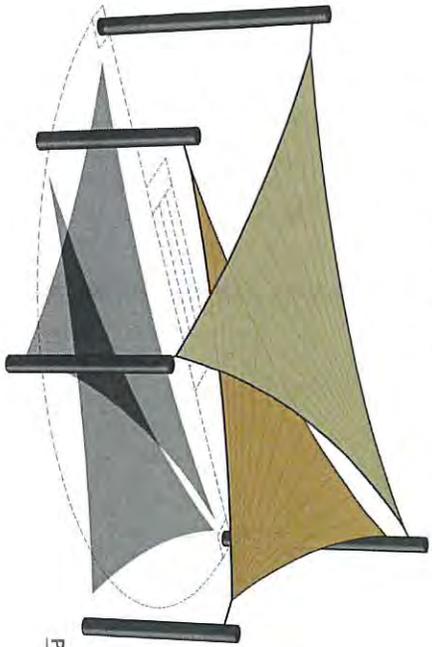
NOTES:  
 -THESE DRAWINGS ARE A PICTORIAL REPRESENTATION OF FABRIC AND STEEL, ONLY. NONE OF THE REQUIRED ATTACHMENT OR CONNECTION DETAILS HAVE BEEN DEPICTED.  
 -ALL DIMENSIONS AND HEIGHTS MUST BE FIELD VERIFIED PRIOR TO ANY FINAL DESIGN, FABRICATION OR INSTALLATION WORK.  
 -FINAL FOOTING TYPE AND SIZE WILL BE DETERMINED AT ENGINEERING PHASE.



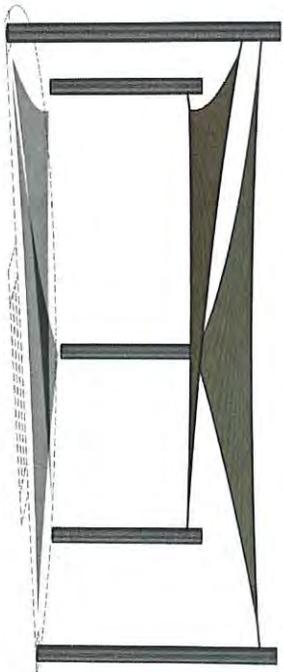
PLAN VIEW  
 PLAN NORTH



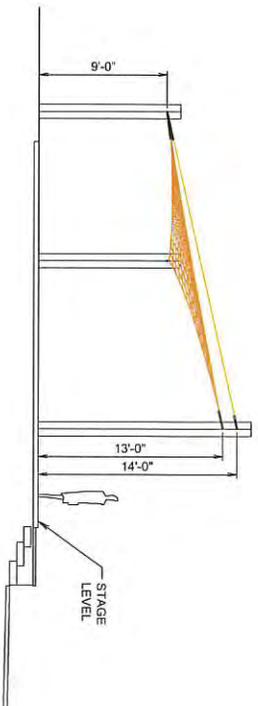
SOUTH ELEVATION



PERSPECTIVE VIEW 1



PERSPECTIVE VIEW 2



WEST ELEVATION

CUSTOMER:

CROUCH  
 RECREATION  
 PROJECT NAME:  
 BRESSLER PARK

LOCATION:  
 WEST 9TH ST  
 WATNE, NE 68787

STRUCTURE TYPE:  
 JOINED SAILS

SIZE:  
 VARIES

THESE PLANS AND SPECIFICATIONS ARE THE PROPERTY OF  
 USA SHADE AND FABRIC STRUCTURES  
 AND SHALL NOT BE REPRODUCED WITHOUT THEIR WRITTEN PERMISSION.



CORPORATE HEADQUARTERS  
 2580 ESTERS BLVD., SUITE 100  
 DFW AIRPORT, TX 75261  
 800-966-5005

CERTIFICATIONS:  
 AISC CERTIFICATION NO. PA-239  
 GLASS COUNTY MANUFACTURING, INC.  
 CERTIFICATION NUMBER: IN-2019-038

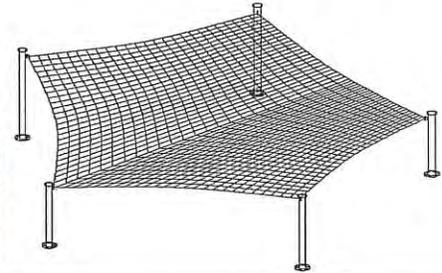
REV	DESCRIPTION	DATE	DRW	CHK	ENG

Drawn By: YH 02/23/20  
 Checked By: YH 02/23/20  
 Approved By: YH 02/23/20  
 DRAWING DESCRIPTION:  
 VIEWS  
 DWG: CON-MAR-067-20  
 PAGE 1000  
 REV.



**USA SHADE**  
 & Fabric Structures, Inc.

# Installation Manual for 3, 4, & 5 Point Tension Sail Units



**3-Point Sail Model #307**                      **Version #307.0**

**4-Point Sail Model #418**                      **Version #418.0**

**5-Point Sail Model #502**                      **Version #502.0**

**NOTE:**  
 Typical installation manual  
 for a standard size structure.

Column placement will change  
 according to the size of each  
 structure.

**Any questions, please call 1-800-  
 966-5005**

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8505 Chancellor Row  
 Dallas, Texas 75247  
 Phone: (214) 905-9500 Fax: (214) 905-9514  
 1-800-966-5005  
[www.usa-shade.com](http://www.usa-shade.com)





## SHIPPING CLAIMS

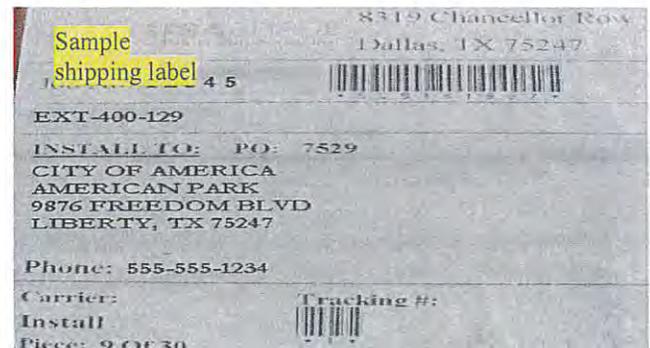
This Shade Structure has been manufactured using the highest quality materials available. If any parts are damaged during transit, please reference project name and 5 digit work order number on the Bill of Materials you received with the shipment when calling about inquires about claims and damaged or missing pieces.

Example list of materials:

### Bill of Materials By Job#: 30537

84	30537	2451	1	TEC8625x1/4-156.25-4-C4-(700-12294)	P Chocolate Brown
85	30537	2451	1	TEC8625x1/4-204.25-4-C5-(700-12294)	P Chocolate Brown
86	30537	2451	1	TEC8625x1/4-204.25-4-C6-(700-12294)	P Chocolate Brown
87	30537	2451	1	SAIL FABRIC TOP 20 X 20 X 20-	Desert Sand

- Get the BOM or Bill of Materials from the freight company when receive your shipment. **See example above.** This is usually on the box for your structure or will be with the truck drivers BOL or (Bill of Lading) if the structure was shipped on a dedicated truck.
- Next look at the BOM and check off each item as it is unloaded using the labels attached to each item; see label BOM key and the example below
- Each item will have a label. On each label it will include the job#; this is important when calling for install support or replacement parts.
- **NOTE: ANCHOR BOLTS ARE NOT PART OF SHIPMENT UNLESS ORDERED WITH STRUCTURE.**



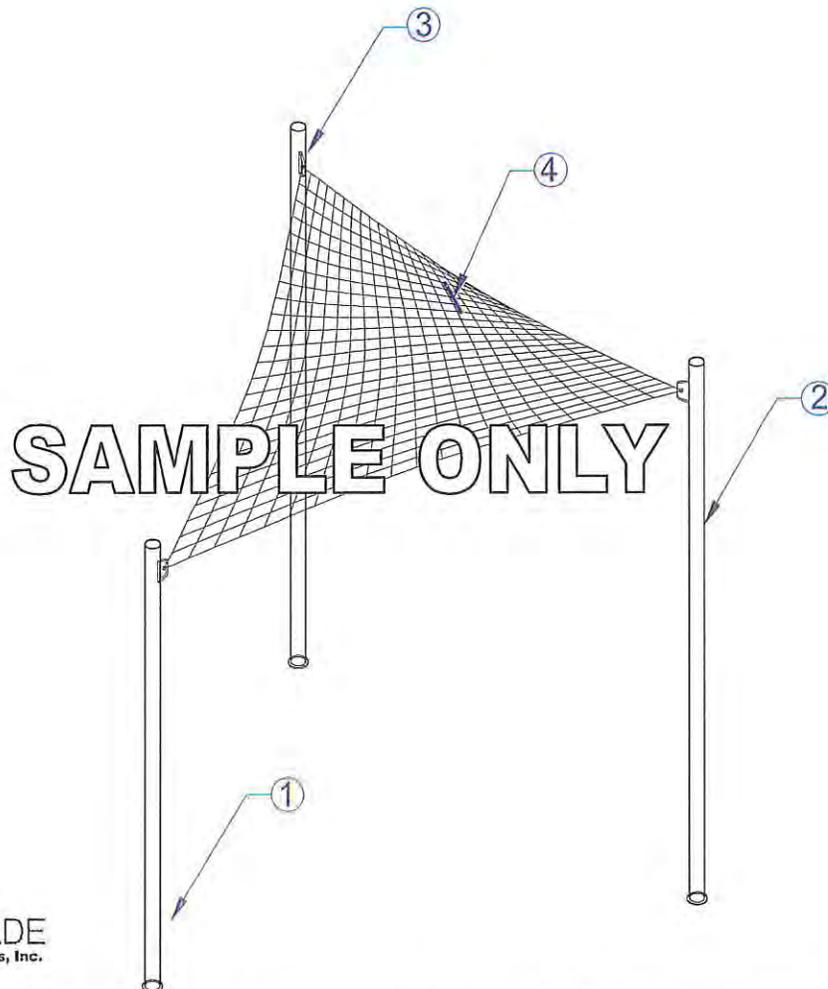
Example list of materials (continued)

**2. Model Parts List 3-Point Sail Model #307** **Version #307.0**

Double check Bill of Materials you receive with your shipment.

EXAMPLE ONLY NOT SPECIFIC TO YOUR STRUCTURE

Item	Qty	Part No		Dimension
		Description	Material	Measure (Overall Length)
1	1	COLUMN 800-108.25-1 (C1)	HSS 8.625 x 0.322	9'
2	1	COLUMN 800-120.25-1 (C2)	HSS 8.625 x 0.322	10'
3	1	COLUMN 800-132.25-1 (C3)	HSS 8.625 x 0.322	11'
4	1	Fabric Top		
5	6	Anchor Shackles Ø5/8"		
6	12	Cable Clamp Ø3/8"		
7	3	35 - (feet) Cable Ø3/8"		
Not Inc.	12	1-1/4"-7 NC x 3'-0" Steel Anchor Bolts ASTM F1554 Grade 59 (Galvanized) (Kits)		

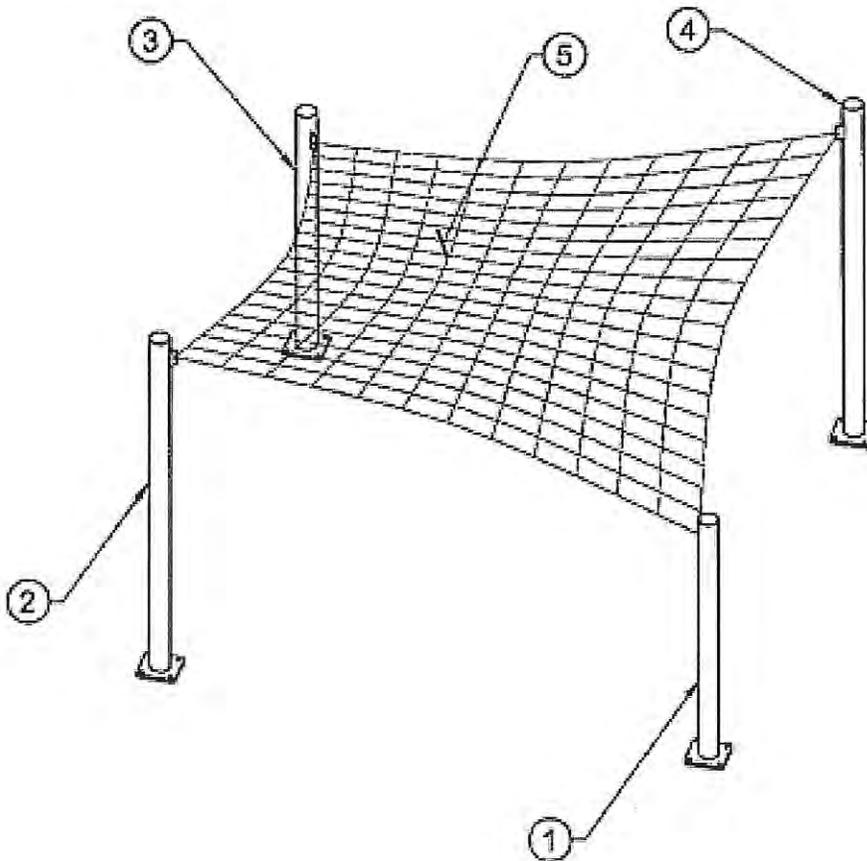


Example list of materials (continued)

**4-Point Sail Model #418** **Version #418.0**

EXAMPLE ONLY NOT SPECIFIC TO YOUR STRUCTURE

Item	Qty	Part No		Dimension
		Description	Material	
1	1	COLUMN 800-120.25-1 (C1)	HSS 8.625 x 0.322	10'
2	1	COLUMN 800-168.25-1 (C2)	HSS 8.625 x 0.322	14'
3	1	COLUMN 800-120.25-1 (C3)	HSS 8.625 x 0.322	10'
4	1	COLUMN 800-168.25-1 (C4)	HSS 8.625 x 0.322	14'
5	1	Fabric Top		
6	8	Anchor Shackles Ø5/8"		
7	16	Cable Clamp Ø3/8"		
8	4	35 - (feet) Cable Ø3/8"		
Not Inc.	16	1-1/4"-7 NC x 3'-0" Steel Anchor Bolts ASTM F1554 Grade 55 Galvanized (Kits)		

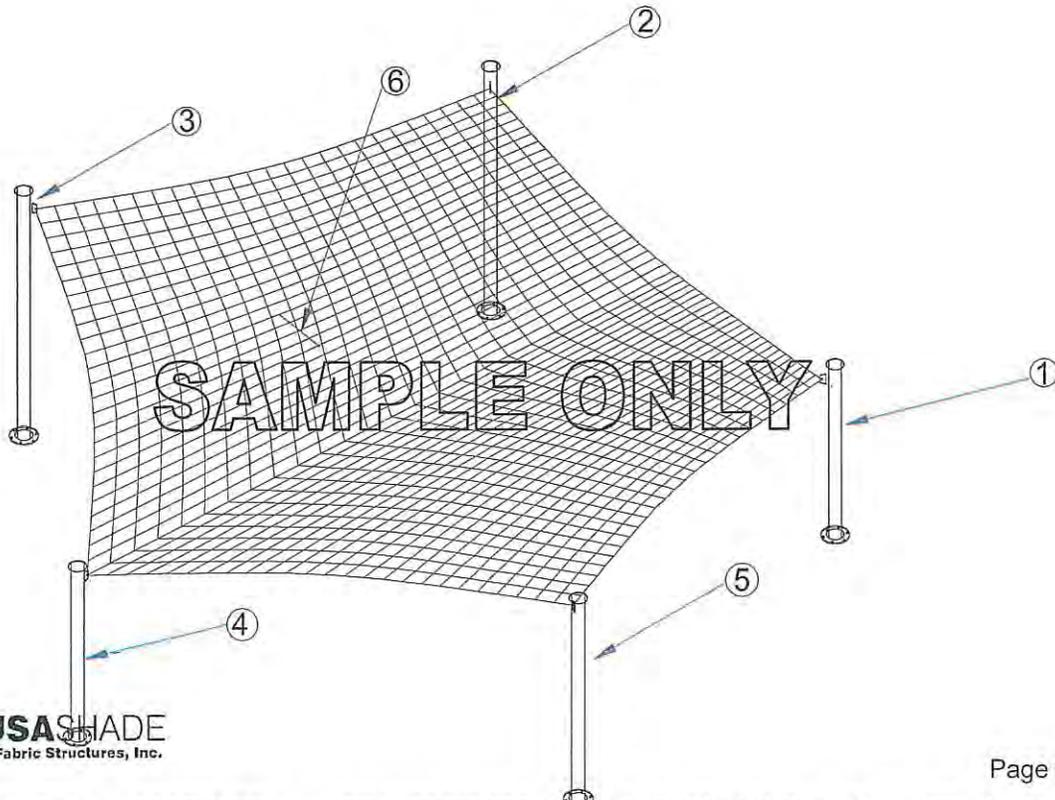


Example list of Materials (continued)

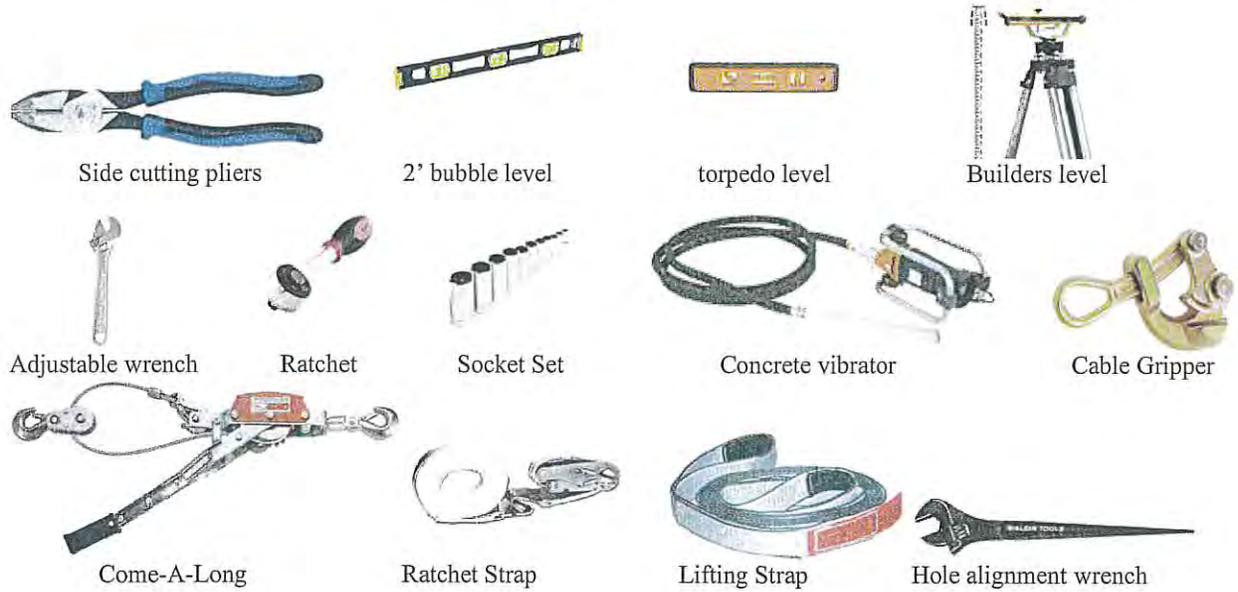
**5-Point Sail Model #502**                      **Version#502.0**

EXAMPLE ONLY NOT SPECIFIC TO YOUR STRUCTURE

Item	Qty	Part No		Dimension
		Description	Material	
1	1	COLUMN 800-120.25-1 (C1)	HSS 8.625 x 0.322	10'
2	1	COLUMN 800-156.25-1 (C2)	HSS 8.625 x 0.322	13'
3	1	COLUMN 800-120.25-1 (C3)	HSS 8.625 x 0.322	10'
4	1	COLUMN 800-156.25-1 (C4)	HSS 8.625 x 0.322	13'
5	1	COLUMN 800-180.25-1 (C4)	HSS 8.625 x 0.322	15'
6	1	Fabric Top		
7	10	Anchor Shackles Ø5/8"		
8	20	Cable Clamp Ø3/8"		
9	5	35 - (feet) Cable Ø3/8"		
Not Inc.	20	1-1/4"-7 NC x 3'-0" Steel Anchor Bolts ASTM F1554 Grade 55 (Galvanized) (Kits)		



### 3. Tools & Equipment required

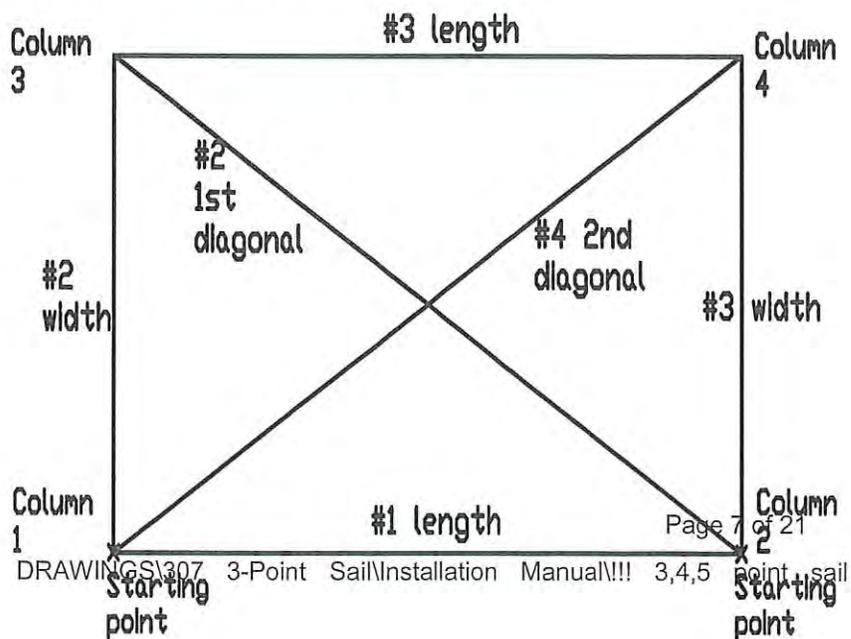


### 4. General description of layout

- If the unit is custom you must follow the drawing given for that structure.
- All structures column layout is center of column to center of column.

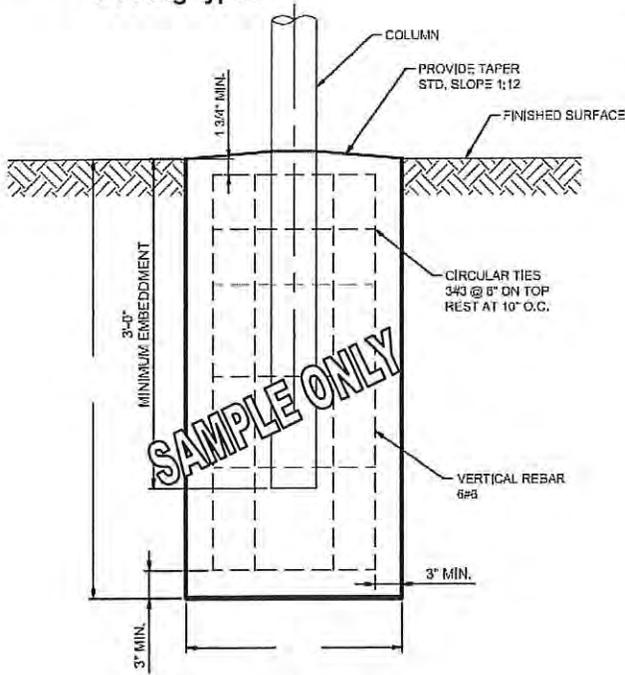
Example of a square structure below: If the unit is a square or a rectangle, be sure to use the correct diagonal when you layout.

- Mark out the length first, these two points will not move unless the structure needs to be adjusted.

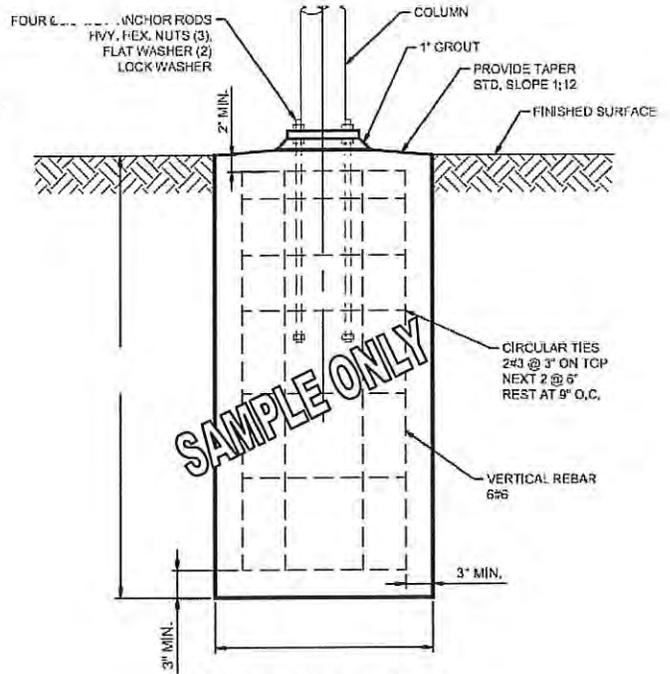


- Measure the diagonal and the width at the same time to find the third column.
- Measure the length and width at the same time to find the fourth column.
- Double check the diagonal to ensure it is the same as the first.
- See page 10 for anchor orientation.

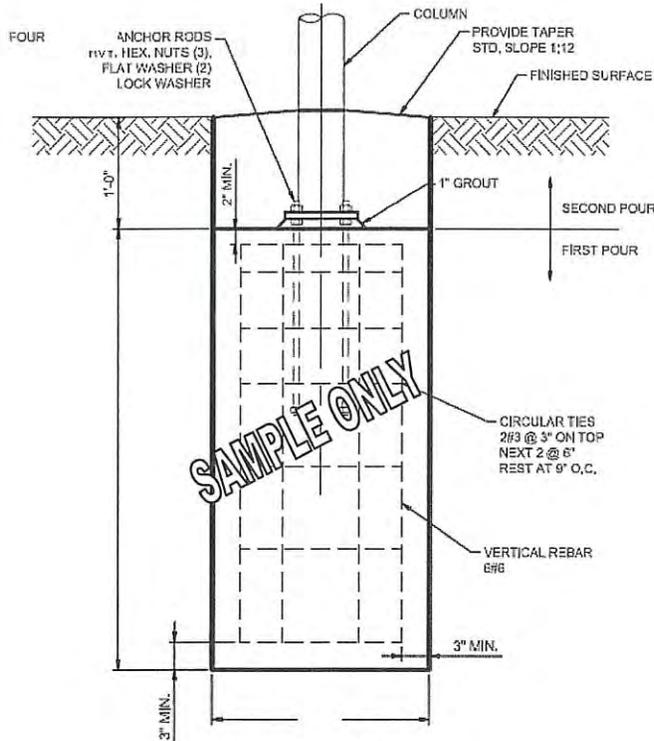
**5. Foundations**  
**Footing types**



A. Embed Column



B. Surface-Mounted Plate



C. Recessed Plate

## 5. Foundations continued - "Setting columns and anchor bolts"



- Surface Mounted or Recessed Plated columns will require that you make a template for holding the anchor bolts while pouring concrete: **See figure # 2**
  - The most common template would be a  $\frac{3}{4}$ " piece of plywood that has holes drilled at the exact center of the anchor locations on the base plate.

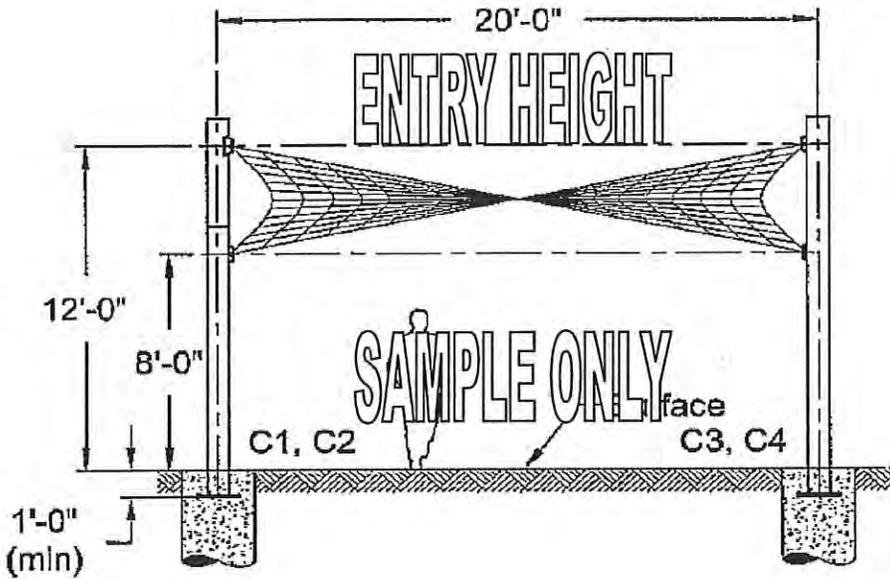
### Embed Columns

- Embed Columns will require you to make a brace used for holding the column upright: **See figure # 1**
  - 2-4"x4" pieces of timber with some all thread bolts compressing them together with enough friction to hold the column and allow you to plumb the column as necessary
- To ensure the top of the columns are all at the same level, take elevations of the footings where each column is going, and place the wooden brace at various heights on the columns, depending on the elevation difference
- Note: The entry height is at the middle of the tab where the anchor shackle will attach to. Keep this in mind when adjusting the braces.

### Base Plate Columns



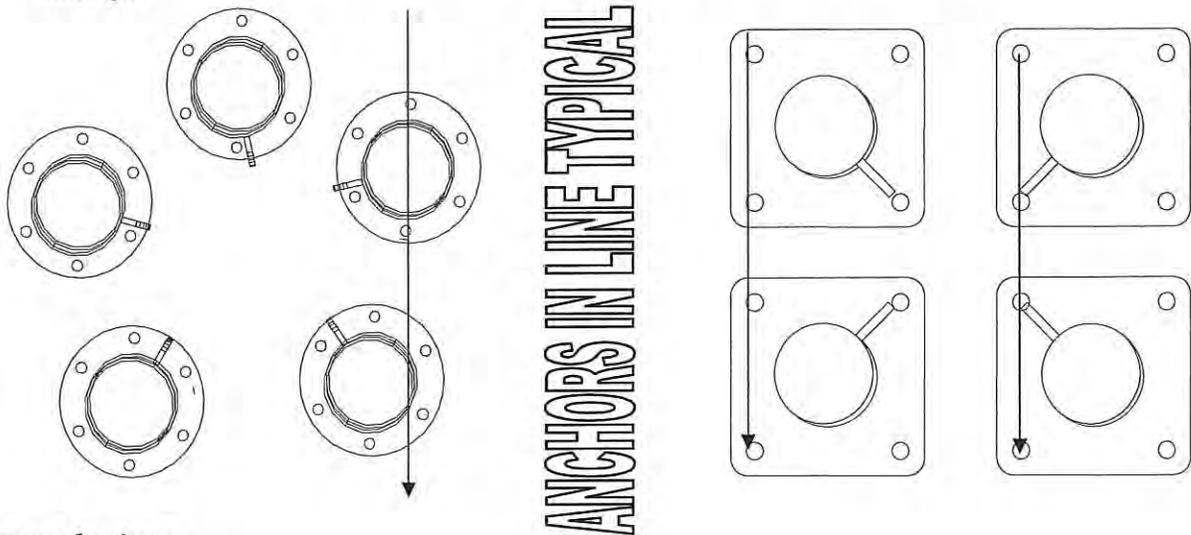
- It is suggested to make this template double thick so it does not warp or bow while placing concrete.
- To ensure the tops of the columns are all at the same level, take elevations of the templates at each column location, and place them at the various heights, depending on your slope.



#### 5. Foundations continued - "Setting columns and anchor bolts"

##### Orientate the Tabs Properly When Setting the Anchor Bolts

- Unless you have a custom structure typically the anchor holes will all line up in a North/South orientation.
- Double check the tabs on the columns to ensure they will line up before you place the concrete in the footings.



Concrete footings





Secure the braces to ensure they do not move during the concrete pour: **See figure # 3**

- This can be done with stakes placed on either side of the brace or template.
- Use 3" adobe blocks to keep the cages from touching the sides of the footing wall.
- It will help to hold the cage with a shovel for extra support when pouring concrete.

- Use a concrete vibrator through out the pour to distribute concrete evenly: **See figure # 4**
  - Stab concrete at different spots in 5 second intervals.
  - Do not hold vibrator in one spot for longer than necessary to distribute concrete evenly.



## 6. Frame installation



**Base Plate Columns (For embed columns move to the next step)**

- To plumb the columns during install it is easiest to level the nuts first before installing columns. **See figure # 5**
  1. Remove the template.
  2. Keep the level on one nut and twist the other 3 left or right to get them all at the same level.
- Lift the columns and lower them onto anchors very carefully not to damage threads.
- Keep a bubble level on the column and tighten all of the nuts until the lock washer is squished and each column is plumb.

**7. Measuring for Fabric**

➤ Use one of the next 3 pages to measure for your fabric:

1. For the 3 point sail use the first page
2. For the 4 point sail use the second page
3. For the 5 point sail use the third page

**Note:** For any Multi Panel structures use any combination of the 3.

**Example:** If you have a 4 post structure with 2 separate fabrics then use (2)-4 point sail templates.

3-Point Sail measuring instructions: fill out the following information

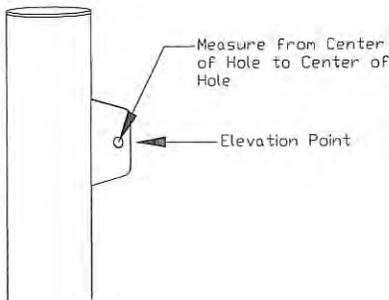
Job# \_\_\_\_\_ Job Name: \_\_\_\_\_

Person Measuring: \_\_\_\_\_

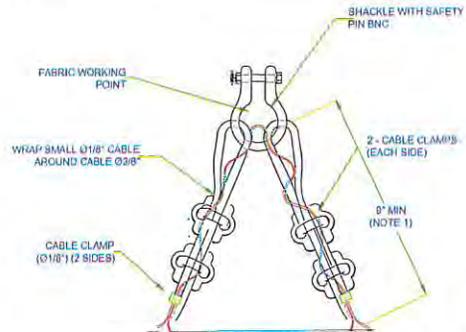
Date: \_\_\_/\_\_\_/2008

Fabric # \_\_\_\_\_

Fabric Color: \_\_\_\_\_



1. Mark each column that you want the fabric to be referenced example: C-1, C-2, C-3 etc.
2. Mark the Elevation of each column (see left drawing).
3. Measure each length and mark clearly the dimension in Feet and Inches. Be sure to measure from Center of Hole to Center of Hole and include all of the diagonals



Note: Assume this corner detail. If different then provide sketch of connection details.

○ Column # \_\_\_\_\_  
 Elevation \_\_\_\_\_



\_\_\_\_\_ ' \_\_\_\_\_ "

4-Point Sail measuring instructions: fill out the following information

Job# \_\_\_\_\_

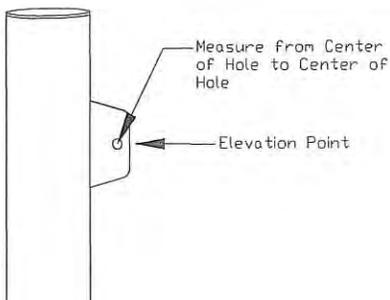
Job Name: \_\_\_\_\_

Person Measuring: \_\_\_\_\_

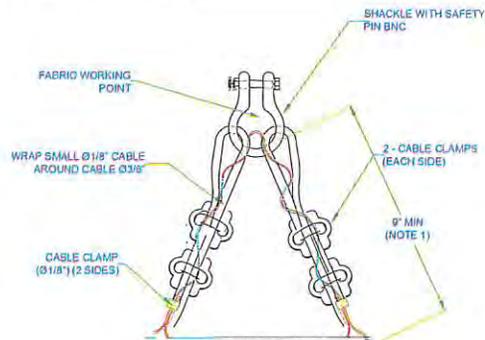
Date: \_\_\_/\_\_\_/2008

Fabric # \_\_\_\_\_

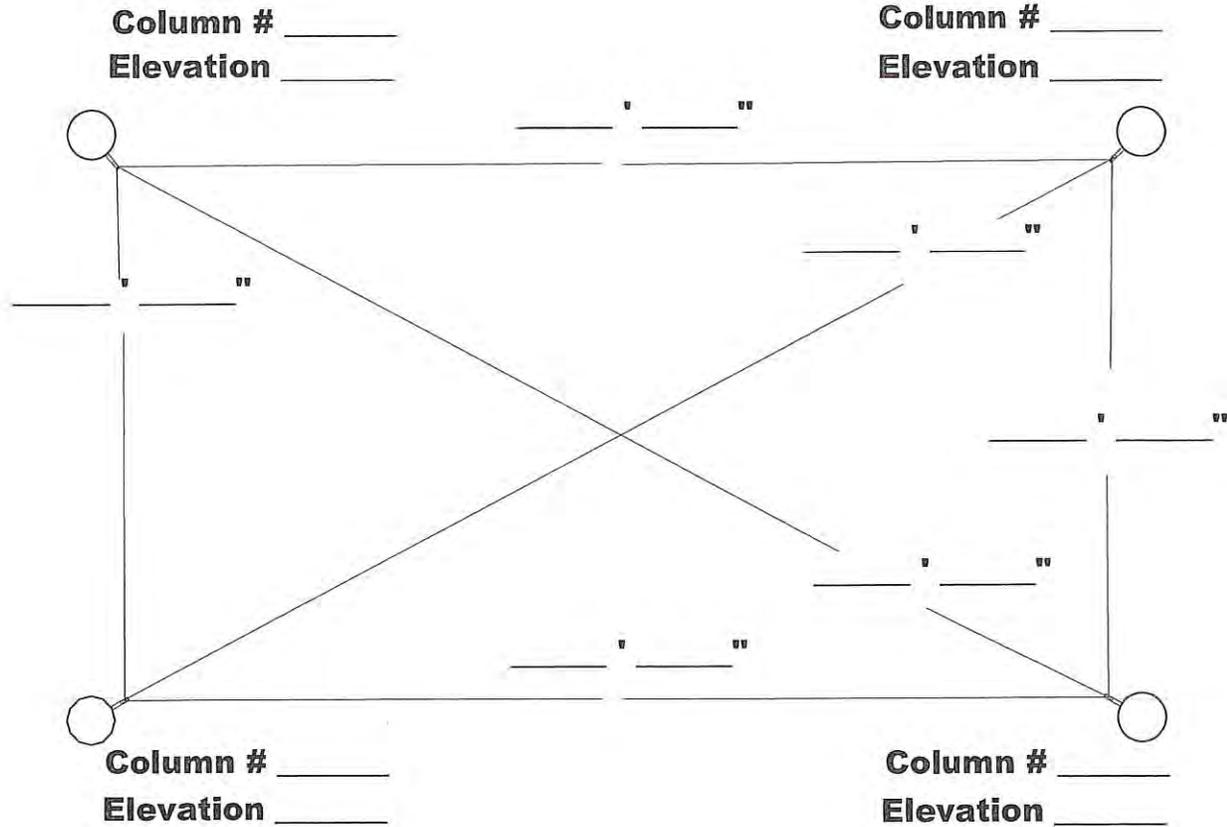
Fabric Color: \_\_\_\_\_



1. Mark each column that you want the fabric to be referenced ex: C-1, C-2, C-3 etc.
2. Mark the Elevation of each column (see left drawing).
3. Measure each length and mark clearly the dimension in Feet and Inches. Be sure to measure from Center of Hole to Center of Hole and include all of the diagonals



Note: Assume this corner detail. If different then provide sketch of connection details.



5-Point Sail measuring instructions: fill out the following information

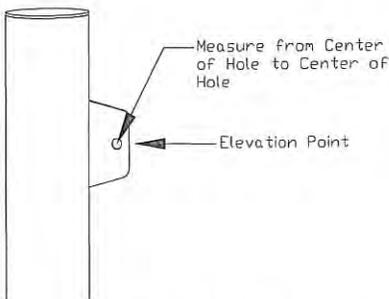
Job# \_\_\_\_\_ Job Name: \_\_\_\_\_

Person Measuring: \_\_\_\_\_

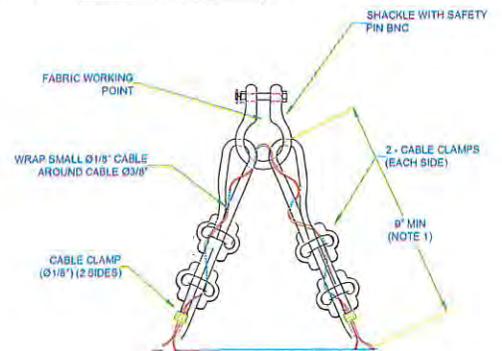
Date: \_\_\_/\_\_\_/2008

Fabric # \_\_\_\_\_

Fabric Color: \_\_\_\_\_



1. Mark each column that you want the fabric to be referenced ex: C-1, C-2, C-3 etc.
2. Mark the Elevation of each column (see left drawing).
3. Measure each length and mark clearly the dimension in Feet and Inches. Be sure to measure from Center of Hole to Center of Hole and include all of the diagonals



Column # \_\_\_\_\_  
Elevation \_\_\_\_\_

Note: Assume this corner detail. If different then provide sketch of connection details.

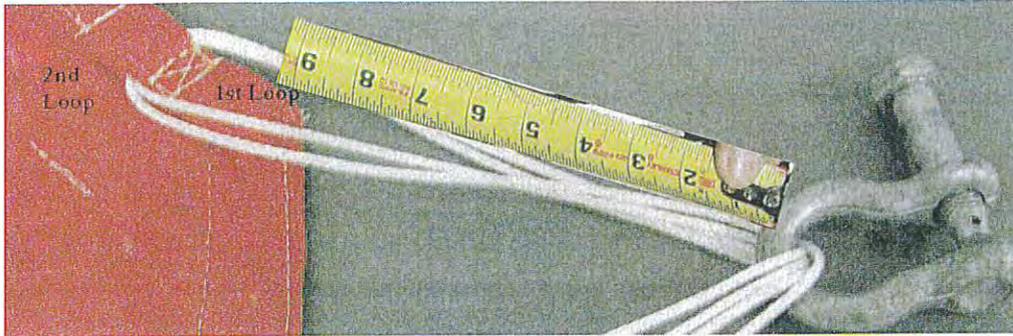
### 8. Fabric installation- For Sails with any one length Larger than 25'

(When all fabric sides are smaller than 25' see page 18)

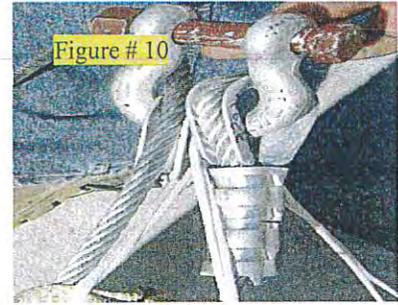
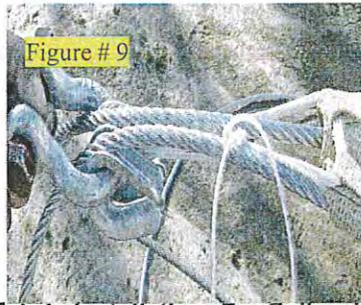
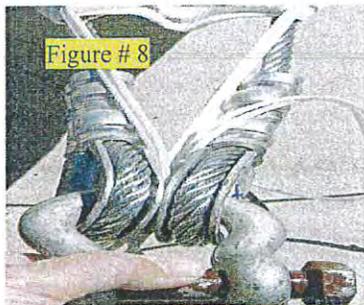
- ❖ Any fabric that has one side longer than 25' you will need individual cables for each side.
- ❖ Any fabric that has all sides shorter than 25' you will need only one cable running through the perimeter edge pocket.
- Layout fabric according to the label attached to each corner identifying Column 1, 2, 3 etc. This will be according to the dimensions you submitted for fabric fabrication. **See figure # 6**
- Each cable may be a different length, ensure the correct cable goes on each side. It may be necessary to measure the sides of all fabrics.
- Insert the individual cables to the corresponding fabric edge pocket. **See figure # 7**



- Loop a ¼" rope 3 times through the small tabs on the fabric corner.
- Measure from the fabric edge 9" and tie the rope so it will stay at that dimension.
- There are two loops on the fabric corner:
  - The second loop is for the rope.
  - The first loop is for the 1/8" cable you will be attaching after fabric is tensioned completely. **See figure below.**



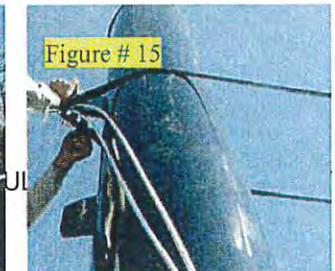
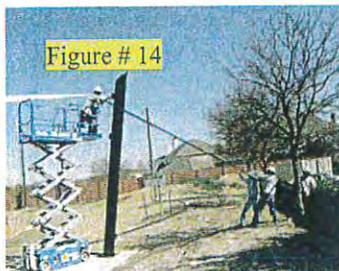
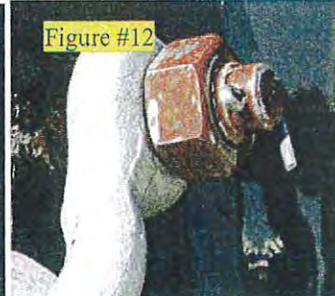
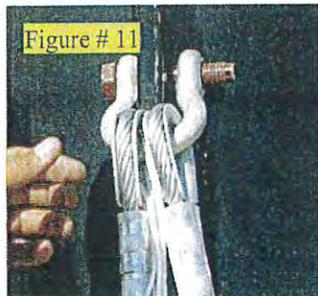
- Attach the shackles to each tab that is welded onto the side of the column. **See figure # 8**
- Each corner will have one of these three connections (2) fixed ends, 2 thimbles or 1 fixed end and 1 thimble. See figures # 8, # 9 and # 10.



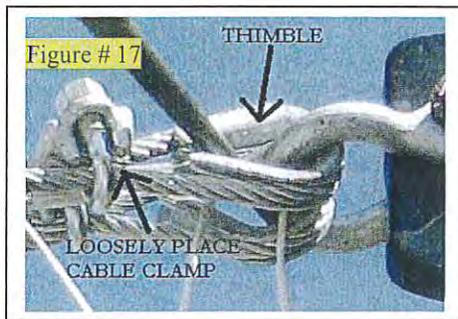
8. Fabric installation- For Sails with

any one length Larger than 25'  
(When all fabric sides are smaller than 25' see page 18)

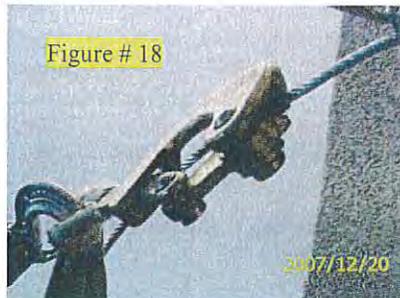
- Attach top shackles first. **See figure # 11**
- Screw the nut on and insert the cotter pin and bend as shown. **See figure #12**
- **DO NOT TIGHTEN THE NUT.** Loosely place on the pin so that it spins freely.



- Place a 3/8" cable clamp onto the cable where it exits the shackle and thimble **DO NOT TIGHTEN THE CLAMP**, the cable must be able to slide thru it as it is being tensioned.
- The thimble and clamp must be held in position when the cables are tensioned. This can be done using a bull pin to pull the cable into the proper plane as it is sliding along the thimble and clamp. **See figure # 17**

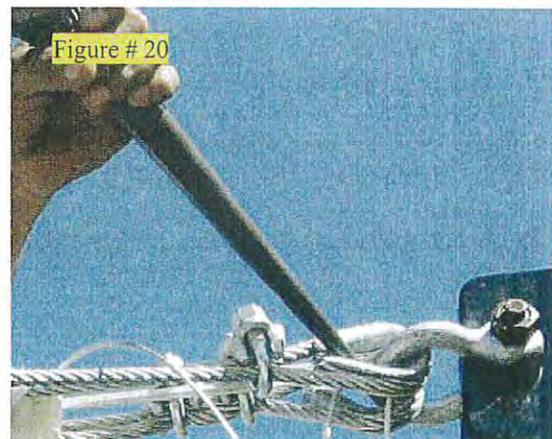


- Tie off a rope or strap to the opposing column.
- Using a cable gripper or; Make a loop in the end of the cable using one cable clamp to complete the loop. Tighten the cable clamp and then attach to come-a-long. **See figure # 18 and # 19**

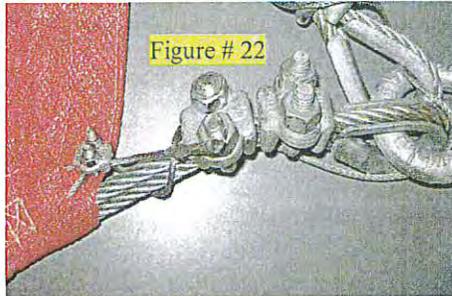
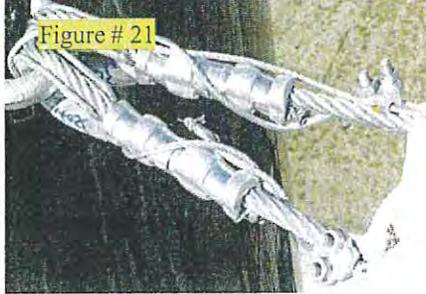


#### 8. Fabric installation- For Sails with any one length Larger than 25' (When all fabric sides are smaller than 25' see page 18)

- The loose thimble will move and bind while you tighten the cable. You must attach a vise grip, spud wrench, or a heavy duty screw driver to hold the thimble in place throughout the tensioning. **See figure # 20**
- Tension the come-a-long checking the fabric tightness. You can test the tightness of the fabric by hitting the perimeter cable with the palm of you hand to see how much it moves.
- If the fabric does not move more than 6" up or down then you have the correct tension.
- If fabric bounces and has a ripple affect then you may need to apply more tension.



- When the fabric has the proper tension you must slide the cable clamp toward the thimble as close as you can get it and tighten to the proper torque rating:
  - 1/4" cable clamps requires 15 Ft. Lbs. of torque
  - 3/8" cable clamps requires 45 Ft. Lbs. of torque
  - 1/2" cable clamps requires 65 Ft. Lbs. of torque
- Remove come-a-longs
- Straighten cable if needed and insert excess cable back into cable pocket. **See figure # 21**
- Add the second cable clamp on either side and tighten to proper torque rating.
- Once this is done wrap the 1/8" cable around the two cable sides and through the shackle.
- Pull hand tight and tighten the two 1/8" cable clamps.

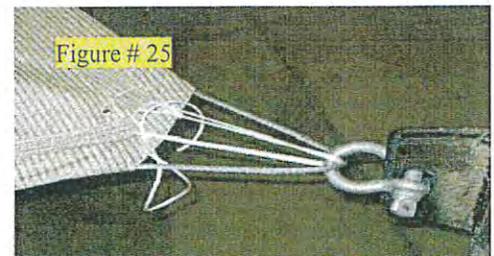
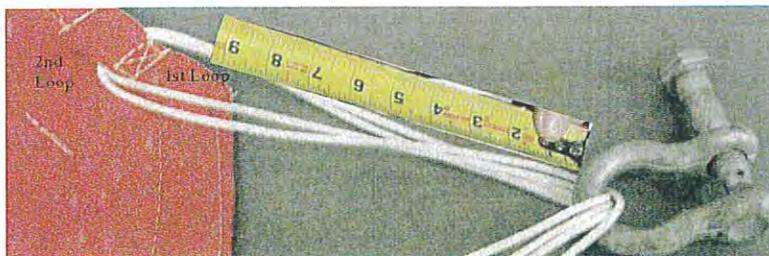
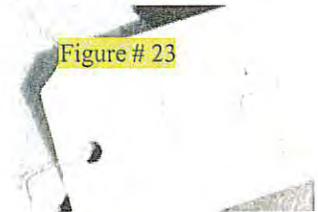


- This small cable is very important so the fabric does not pull away from the corner overtime and it will damage the fabric voiding the warranty. Do this on all corners the same. **See figure # 22**
- Clean any smudges or dirt off of the powder coat that may have occurred during installation and apply touch up paint as necessary.



### 9. Fabric installation- For Sails with all sides smaller than 25'

- Layout fabric according to the label attached to each corner identifying Column 1, 2, 3 etc. This will be according to the dimensions you sent for fabric fabrication. **See Figure # 23**
- Loop a 1/4" rope 2-3 times through the 2<sup>nd</sup> loop on the fabric corner. **See figure # 24**
- Measure from the fabric edge 9" and tie the rope so it will stay at that dimension.
- There are two loops
  - The second loop is for the rope **See figure # 25**
  - The first loop is for the 1/8" cable you will be attaching after fabric is tensioned completely



**Figure # 24**

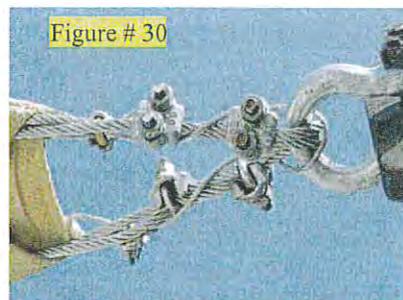
- Next add the Shackles to each corner.
- Insert the cable through all sides of fabric sleeve so both loose ends are at one column.

**Tensioning cables**

- For single perimeter cables you will need 2 come-a-longs to complete this step.
- Tie off a rope or strap to the opposing columns.
- Using a cable gripper or; Make a loop in the end of the cable using one cable clamp to complete the loop.
- Tighten the cable clamp and then attach to come-a-long. **See figure # 27 and # 28**
- 

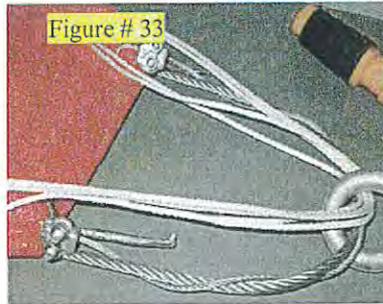
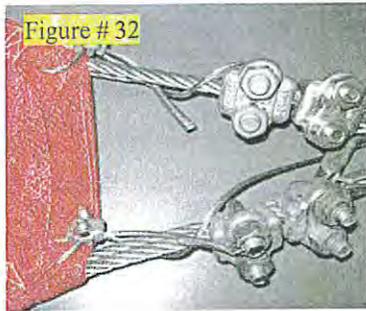


- Now tension both comalongs checking the tension on the fabric as it is being tightened.
  - For even tensioning on all sides of the fabric, pull down in the middle of all sides of the fabric, this helps reduce the friction allowing the cable to slide freely thru the edge pocket.
  - Test the tightness of the fabric by hitting the perimeter cable with the palm of you hand to see how much it moves.
  - If fabric does not move more than 6" up or down then you have the correct tension.
  - If fabric bounces and has a ripple affect then you may need to apply more tension
- When the fabric has the correct tension you must slide the cable clamp toward the column so the excess cable will have enough room to be reinserted into fabric edge pocket.
- Tighten the cable clamps to the proper torque rating
  - 1/4" cable clamps requires 15 Ft. Lbs. of torque
  - 3/8" cable clamps requires 45 Ft. Lbs. of torque
  - 1/2" cable clamps requires 65 Ft. Lbs. of torque
- Remove come-a-longs



- Straighten cable if needed and insert excess cable back into cable pocket. **See figure # 29**
- Add the second cable clamp on either side and tighten to proper torque rating. **See figure # 30**

- Once this is done wrap the 1/8" cable around the two cable sides and through the shackle.
- Pull hand tight and tighten the two 1/8" cable clamps until tight. **See figure # 31**



- This small cable is very important so the fabric does not pull away from the corner overtime and it will damage the fabric voiding the warranty. **See figure # 32 and # 33**
- Clean any smudges or dirt off of the powder coat that may have occurred during installation and apply touch up paint as necessary.

## 10. Warranty

The instructions for installation of the structures and the fabric are provided to ensure that the unit will be installed to meet the design criteria and remain trouble-free for years to come. Fabric, steel components, and all hardware are warranted up to 90mph. Fabric tops must be removed if wind is expected over 90mph. Designs supporting a 90mph maximum wind load are included for most of our structures, unless specifically ordered with wet-stamped engineered drawings, stating the structure is designed to meet a higher wind load.

Failure to follow these installation instructions through incorrect or improper installation will result in loss of warranty, and could result in possible danger to individuals and/or property. USA SHADE & Fabric Structures, Inc. assumes no responsibility for improper or incorrect installations.



If you have any questions, or are unsure of the installation procedure, please contact us toll-free at 800-966-5005 for assistance.



# STAINLESS-STEEL CABLES

- ❖ Stainless steel cable  
(No use of galvanized steel)
- ❖ Independent cables  
(No one-piece continuous cable)
- ❖ Cable sizes based on canopy size
- ❖ Re-enforced corners
- ❖ Protective vinyl coating
- ❖ Cables individually pre-looped and clamped at the factory
- ❖ (10) Year Warranty



## Advantages to your customer:

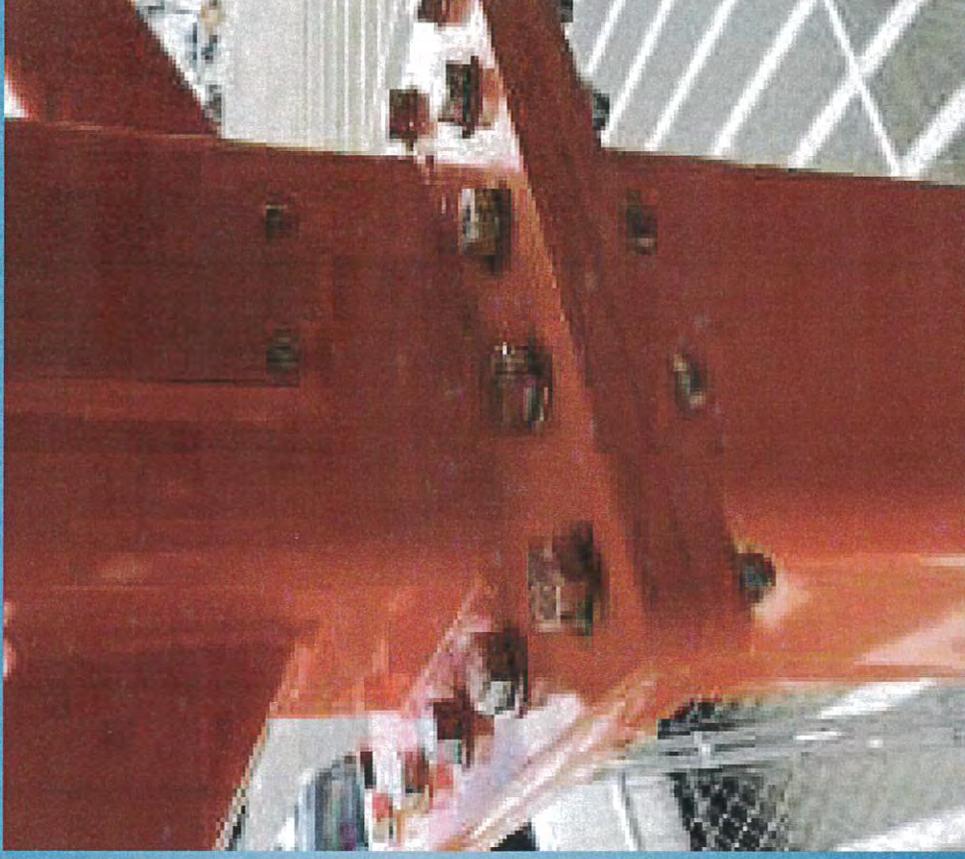
- Stainless steel is extremely strong
  - Galvanized is a weaker steel
- Stainless steel is corrosion resistant
  - Galvanized can corrode if the zinc finish is worn off
- Canopy fabric and cable material do not directly encounter each other
- No in field measuring and cutting

# STAINLESS-STEEL HARDWARE

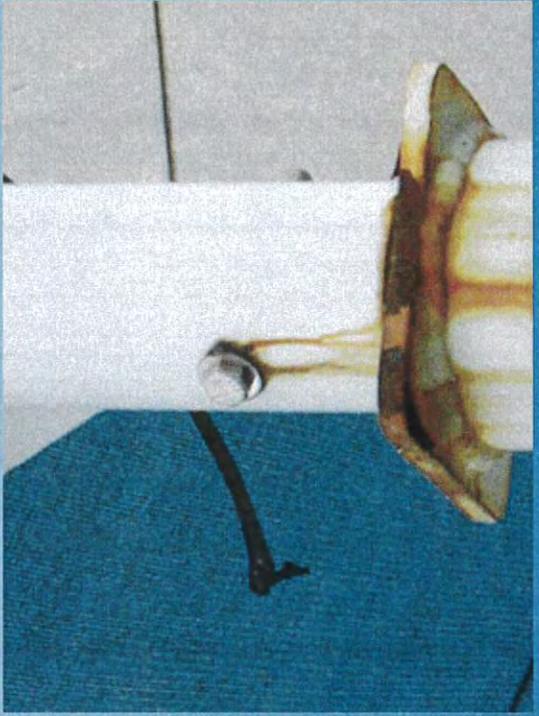
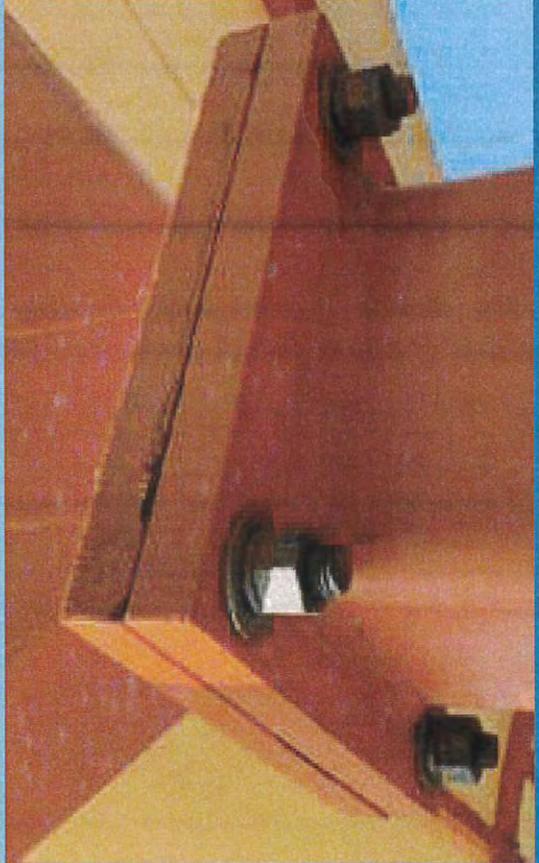
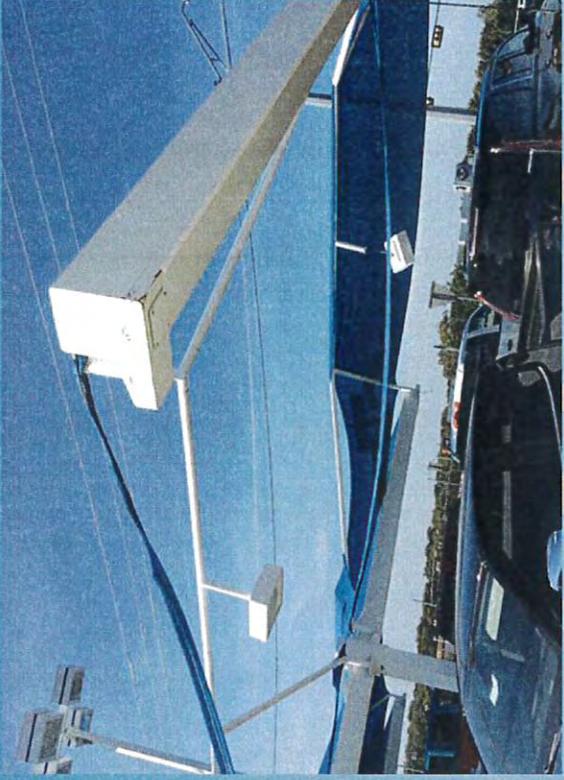
- ❖ All assembly hardware is Stainless steel  
(No use of galvanized)
- ❖ (10) Year warranty

Advantages to your customer:

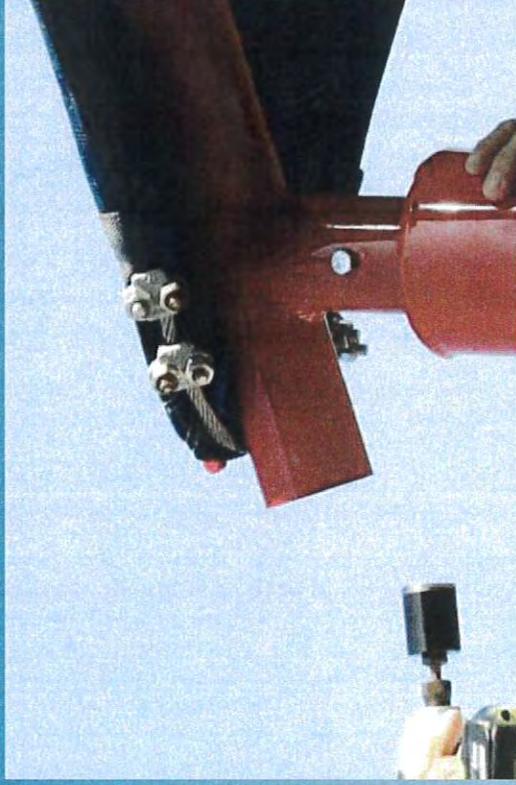
- Stainless steel is extremely strong
  - Strength you can count on
- Stainless steel is corrosion resistant
  - Won't rust or tarnish
- Stainless steel offer excellent life cycle
  - Longer life span than other fasteners
- Stainless steel is temperature resistant
  - Able to handle extreme cold and heat



WHY REQUIRE STAINLESS STEEL?



# THE COMPETITOR'S FASTENING SYSTEM



- Continuous Cable:
- (1) Length of cable
  - Tensioned on one corner
  - Cables secured with "U" Bolts

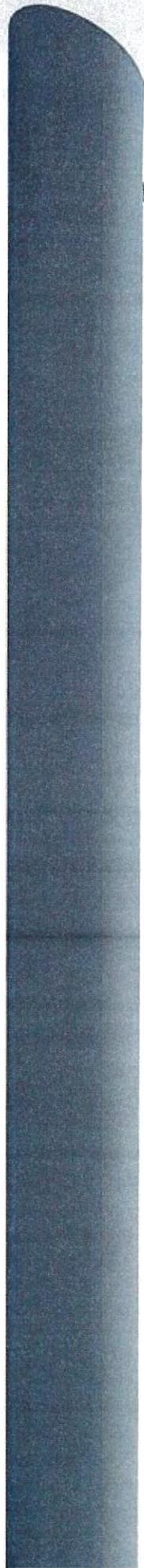


# A world of **SHADE**

PRODUCT  
CATALOG



**USA SHADE**  
& Fabric Structures



# We inspire stunning outdoor spaces through the benefits of shade.

For nearly 3 decades, USA SHADE & Fabric Structures has been the pioneer, innovator and proven industry leader in fabric shade structure design and technology. As a vertically integrated business, we have the unparalleled capacity to deliver the best shade structures for all types of applications and markets. We stand by the quality of work our customers receive, from design to installation—***we've got you covered.***

# Find the solution to your next project



squares and rectangles

7-12



multi-sided

13-16



sails

17-18



suspended/cantilever

19-24



other

25-28



inspiration

29-32



finishes/powder coat colors

33



fabrics

34





## Activate spaces and improve the outdoor experience



Safeguards against sun and weather damage



Increase airflow and comfort



Blocks up to 98% of harmful UV rays



Low maintenance



10-year warranty

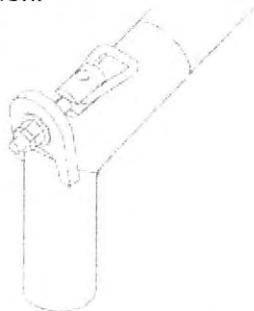


25-degree temperature reduction keeps seating and play surfaces cool

## Quick release



Quickly remove and reattach fabrics for winter storage or extreme weather conditions with our quick release (QRE) option.



## Range of sizes available

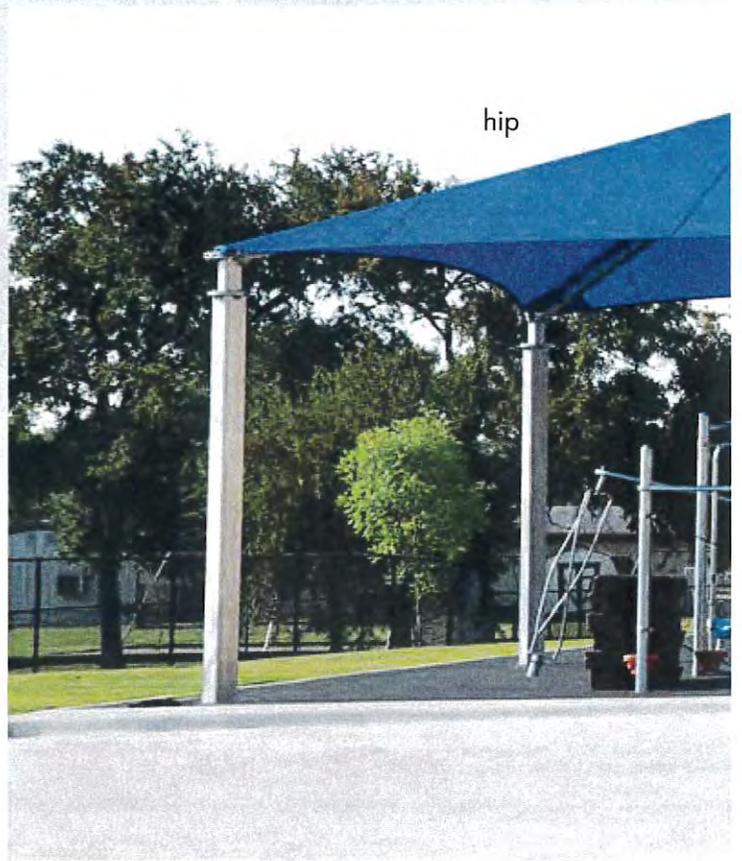
Our shade structures have a range of sizing options available to suit your needs. To choose the right size for your space, discuss your upcoming project with a representative.







slant hip



hip



two post hip

### Hip

10'x12' to 50'x55'



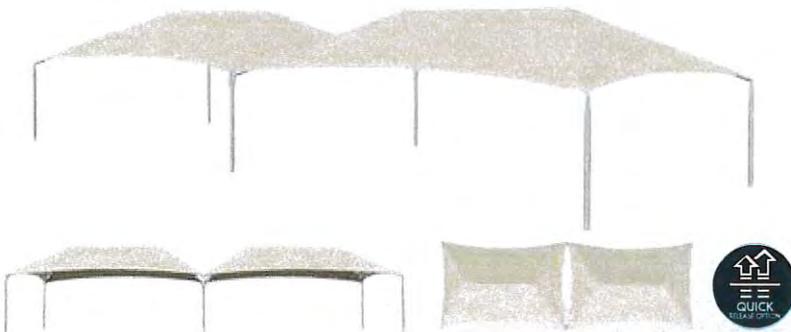
### Hip Multi-Panel

18'x20' to 50'x55'



### Hip Joined

Combine Hip or Multi-Panel into a variety of sizes



### Two Post Hip

10'x12' to 14'x22'

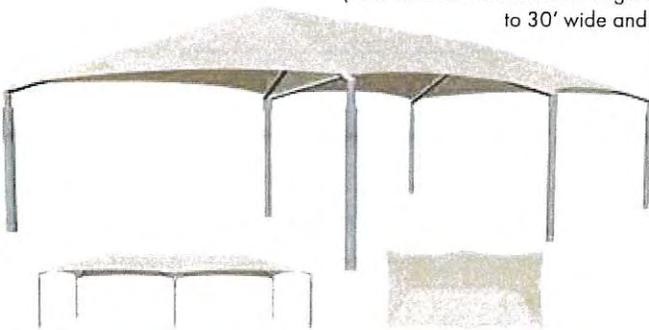




**Hip** The workhorse of our product line, the Hip structure is a simple design and cost-effective solution for shading a wide variety of spaces.

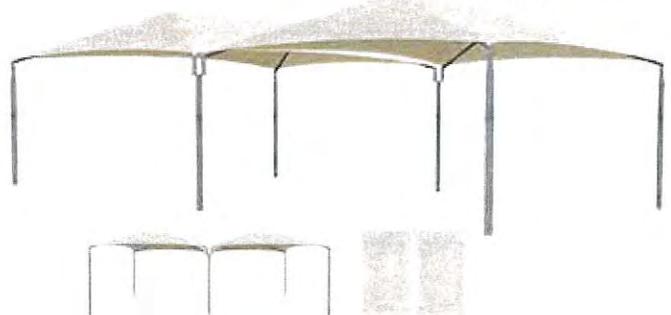
**Hip Extended**

10'x24' to 30'x60'  
 (Extended frames that are a single top hip up to 30' wide and 60' long)



**Hip Double-Wide**

Combine Hip or Hip Multi-Panel into a variety of sizes



**Slant Hip**

10'x12' to 40'x40'



Squares and Rectangles



Mariners joined



## Mariner Pyramid

10'x10' to 50'x50'

The Mariner Pyramid structure provides shade similar to our Hip or Pyramid designs but features multi-panel shade layers that create a striking presence.



## Wave

20'x20' to 35'x35'

Designed to mimic the look of a wave, our Wave structure features a peak-and-valley shape, adding excitement and movement to any application.

## Super Span

Our massive Super Span structures provide maximum shade for larger outdoor areas including basketball courts, mass automotive coverage, and outdoor seating spaces.

### Super Span Hip

Up to 60'x60'

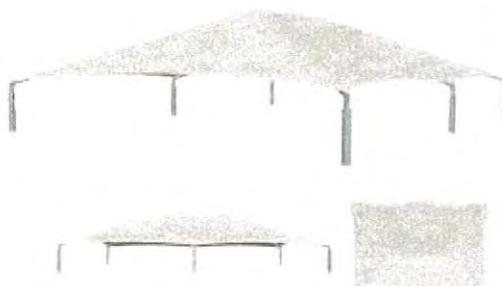
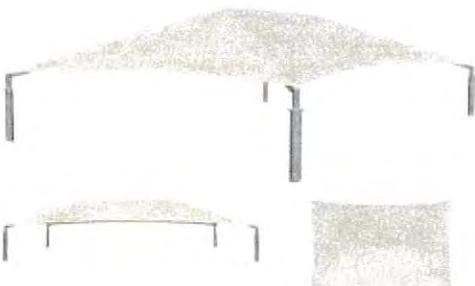
### 6-Column Super Span Hip

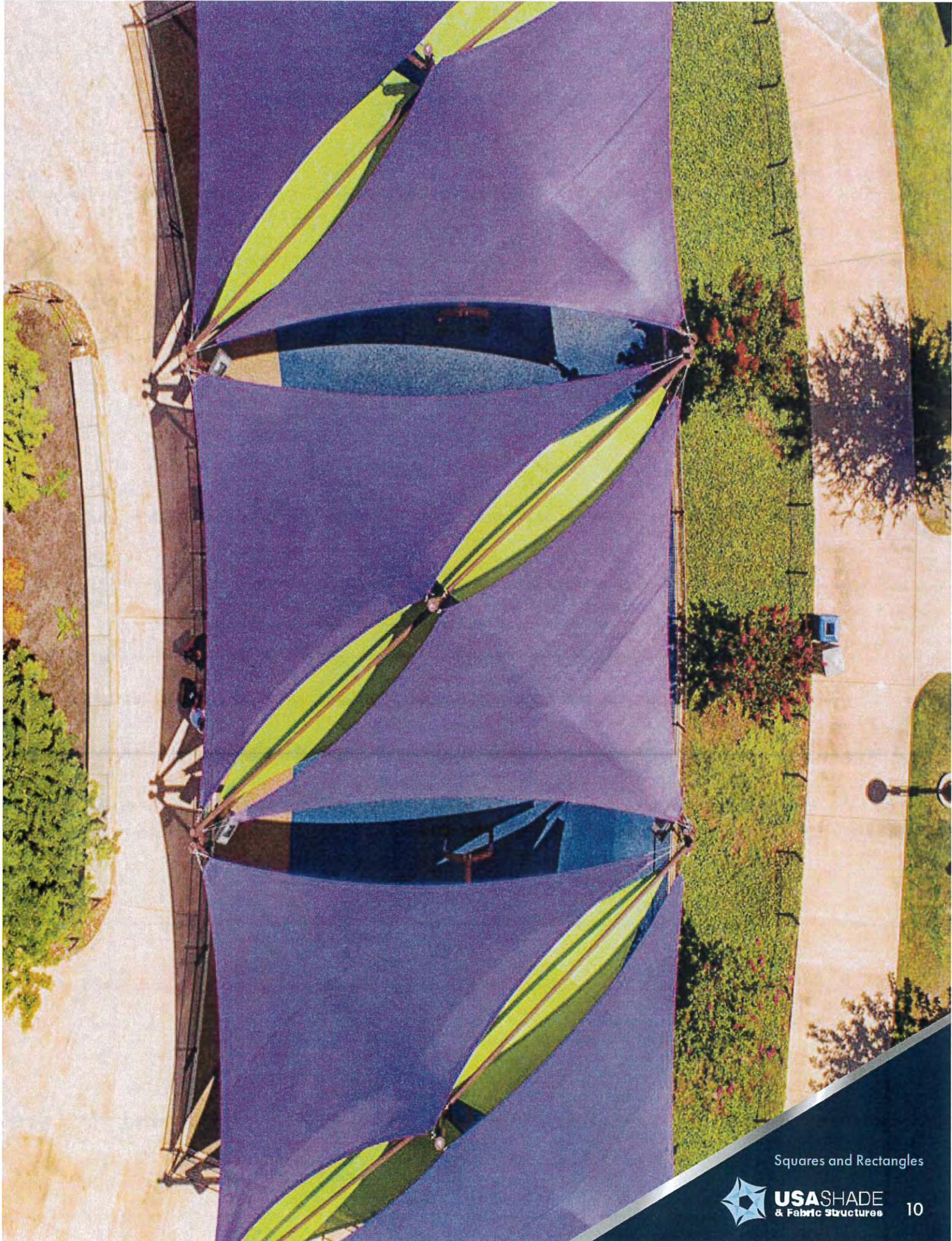
Up to 60'x100'

### Super Span Pyramid

Multi-Level Multi-Panel

Up to 60'x60''





Squares and Rectangles



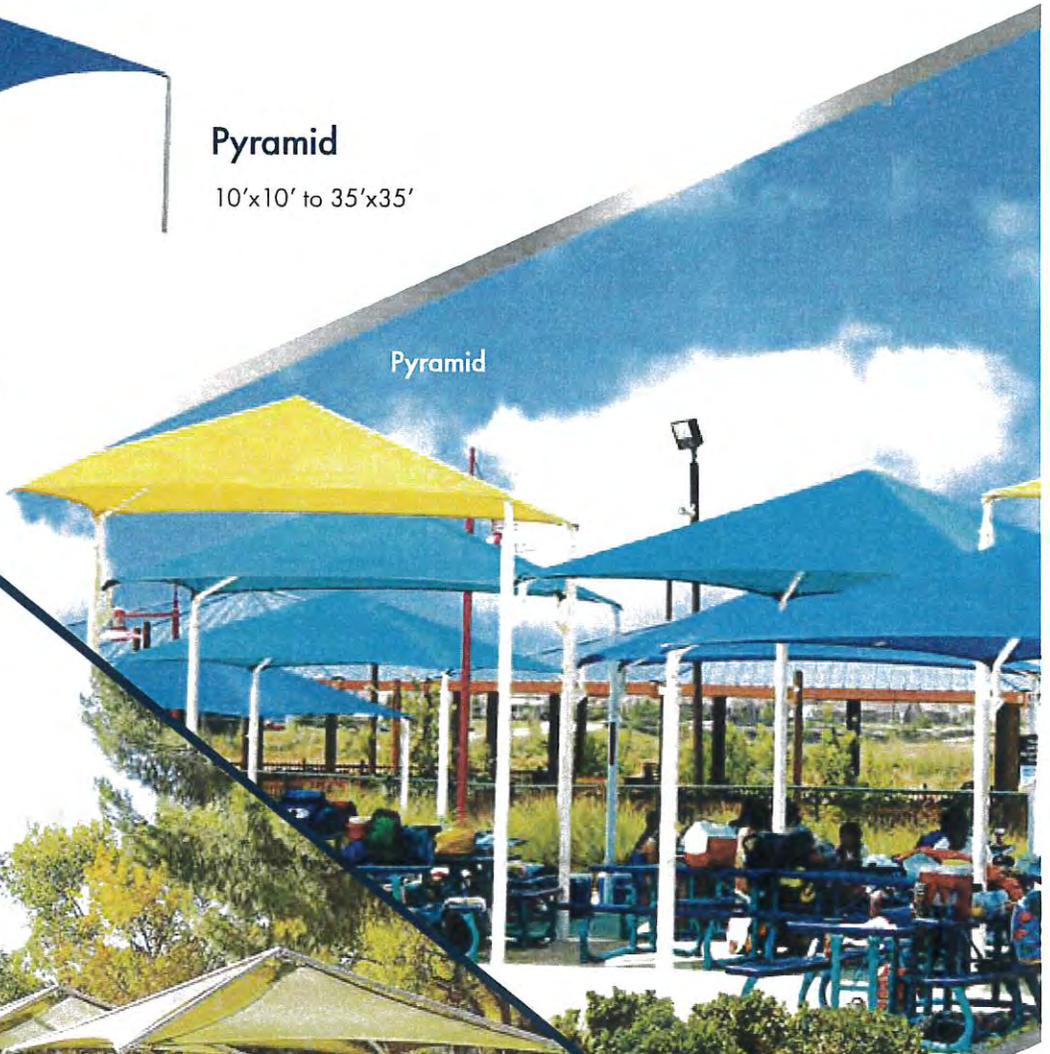
# Pyramid

Our Pyramid structures feature a square, peak-roofline design and can be joined together to cover a larger footprint.



## Pyramid

10'x10' to 35'x35'



## Pyramid Multi-Panel



## Single Post Pyramid

8'x8' to 24'x24'



Single Post Pyramid



### Pyramid Multi-Panel

18'x18' to 35'x35'



### Pyramid Joined

Available in a variety of combined sizes from single top or multi-panel.



Squares and Rectangles



# Multi-Sided

From three to eight sides and shapes of all kinds, our multi-sided shade structures offer a variety of options for all applications.



Triangle



## Hexagon

For areas that require zero obstruction from a center column, the Hexagon is ideal, with six columns around the perimeter.



### Hexagon

20' to 50'



### Hexagon Multi-Panel

20' to 50'



## Octagon

30' to 80'

Our Octagon structure is an ideal solution for shading areas up to 80' in diameter without the obstruction of a center column.



## Triangle

18' to 30'

For asymmetrical, elongated areas, our Triangle can be an ideal shade solution.



Multi-Sided

Single Post Octagon



### Single Post Hexagon

10' to 20'

The Single Post Hexagon is a single-column structure with six fabric attachment points and a pointed top.

### Single Post Octagon

10' to 20'

The Single Post Octagon is a single-column structure with eight fabric attachment points and a pointed top.



Coolbrella



## Coolbrella

12' to 20'

The Coolbrella is a commercial-grade, permanent umbrella canopy featuring one support column with one frame-tensioned fabric roof section. Available in a variety of colors with fabric tops that can be removed easily without wheels, wires or pulleys.

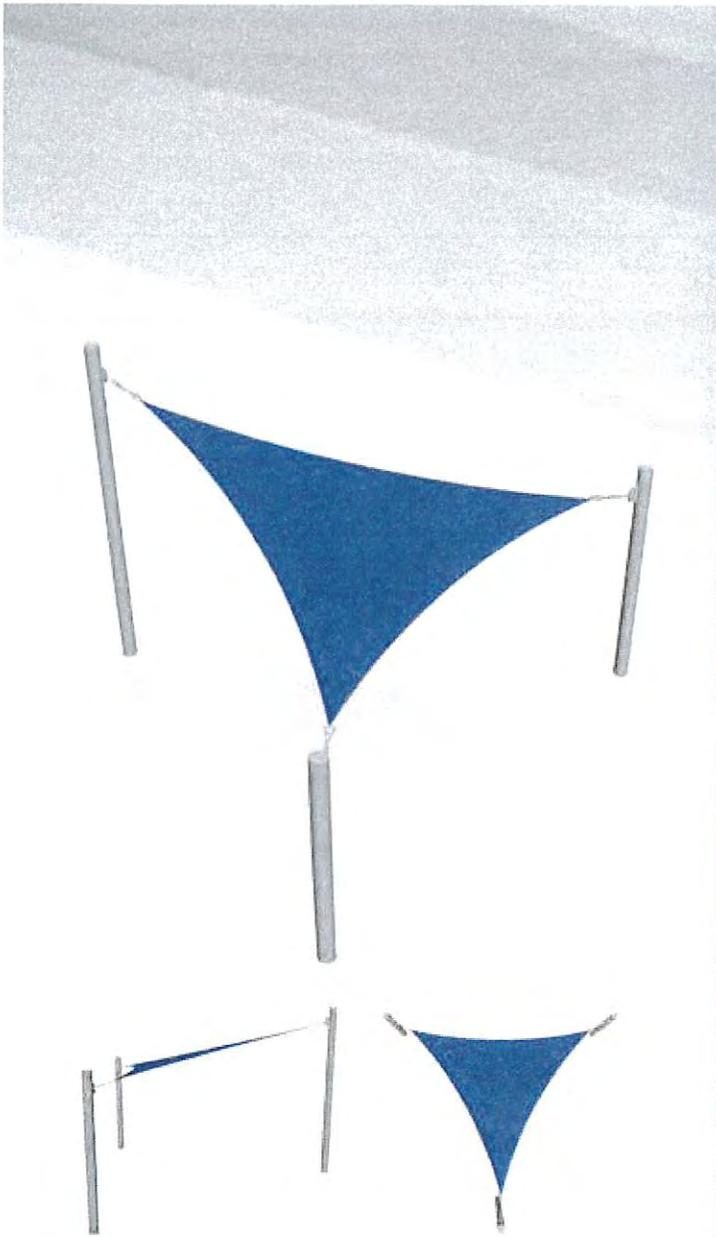
## Mariner Hexagon

30' to 45'

The Mariner Hexagon is available in diameters up to 45' and incorporates upper and lower fabric layers, giving the structure a unique appearance.



Multi-Sided



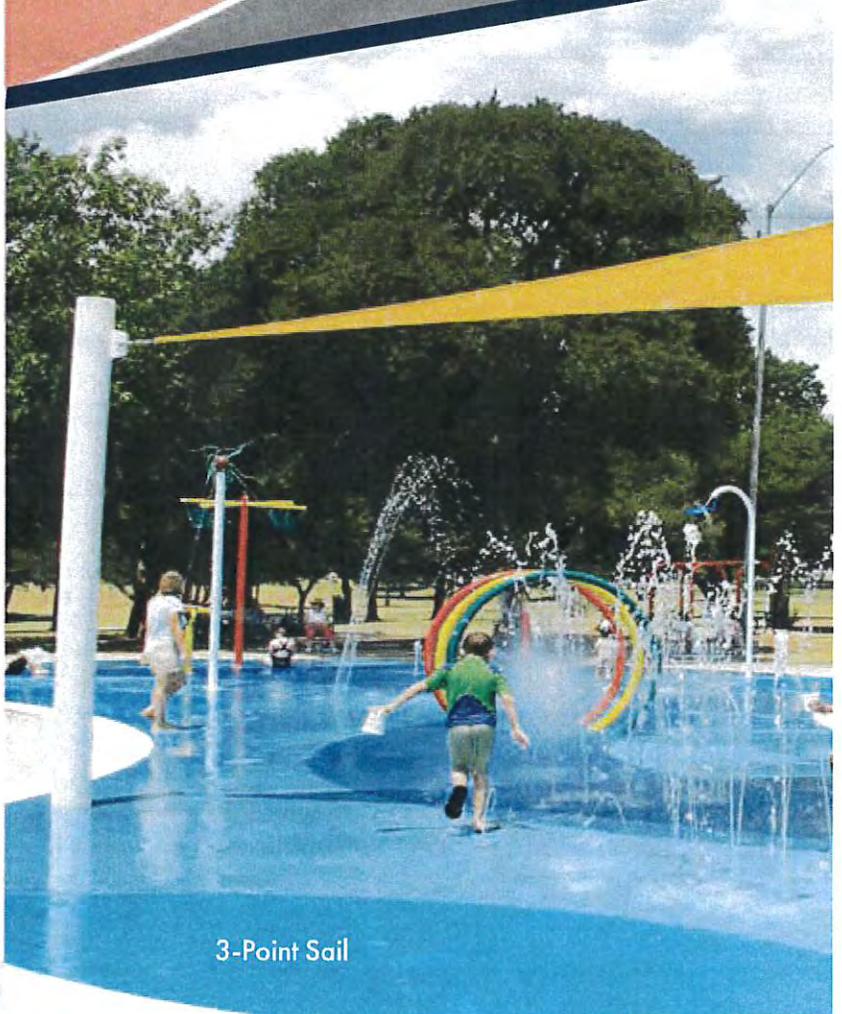
## 3-Point Sail

Up to 50' per side

Our 3-Point Sail structure features a high-end design with a unique triangular shape, giving outdoor spaces a sophisticated look.



4-Point Hypar Sail



3-Point Sail



## 4-Point Hypar Sail

Up to 60' per side

Our 4-Point Hypar Sail structure features columns of varying heights, allowing the fabric to be formed into a hyperbolic shape.



Single Post  
Pyramid Cantilever

Single Post  
Pyramid Cantilever



## Single Post Pyramid Cantilever

8'x8' to 20'x20'

Our Single Post Pyramid Cantilever structure is ideal for spaces like walkways and poolside lounges that need shade without column obstructions.

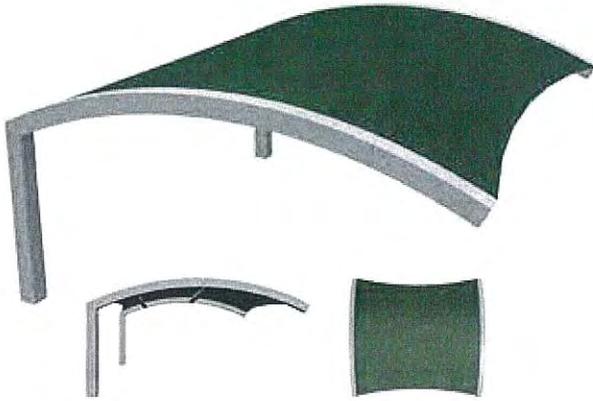
Suspended/Cantilever

# Panorama

Our Panorama cantilever design is an elegantly arched roof that is suited to provide shade over areas that require unobstructed spaces like walkways, bus stops, or automotive parking.

## Single

23'x27'



## Joined

Combine singles into a variety of lengths



# Cantilever Arch Walkway

The Cantilever Arch Walkway is a cantilever structure with a curved arch that can provide shade over long stretches of space without obstructing walkways or paths underneath.

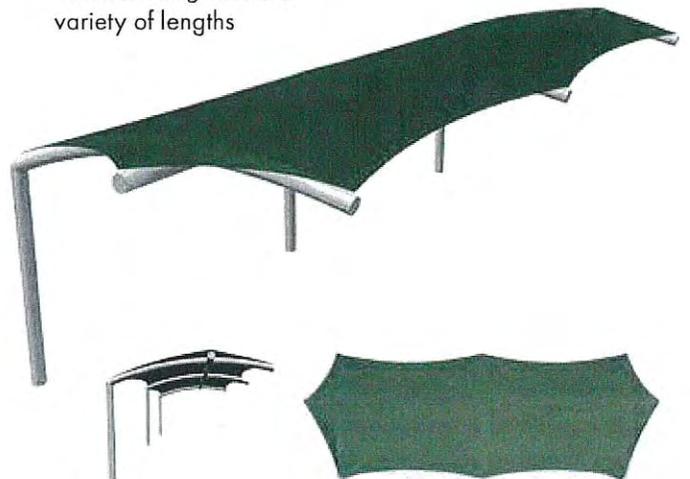
## Single

12'x20'



## Joined

Combine singles into a variety of lengths



# Full Hip Cantilever

These structures can be utilized for a variety of applications needing unobstructed space on one side such as seating areas, benches, and parking lots.

## Single

10'x12' to 20'x40'



## Joined

Combine singles into a variety of lengths



## Double-Wide

Combine singles into a variety of lengths and widths



Suspended/Cantilever

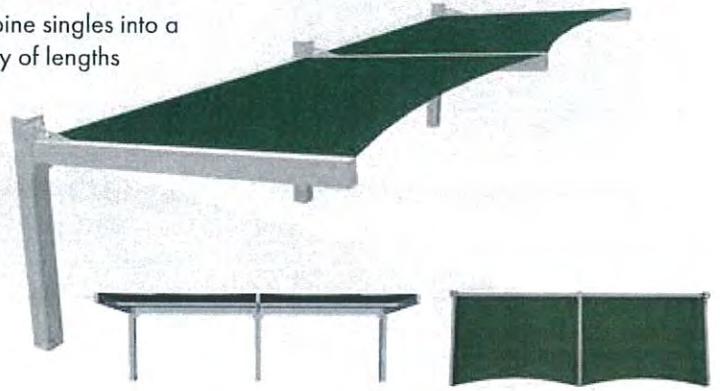
### Single

10'x24' to 20'x30'



### Joined

Combine singles into a variety of lengths



### Double-Wide

20'x24' to 40'x40'



### Double-Wide Joined

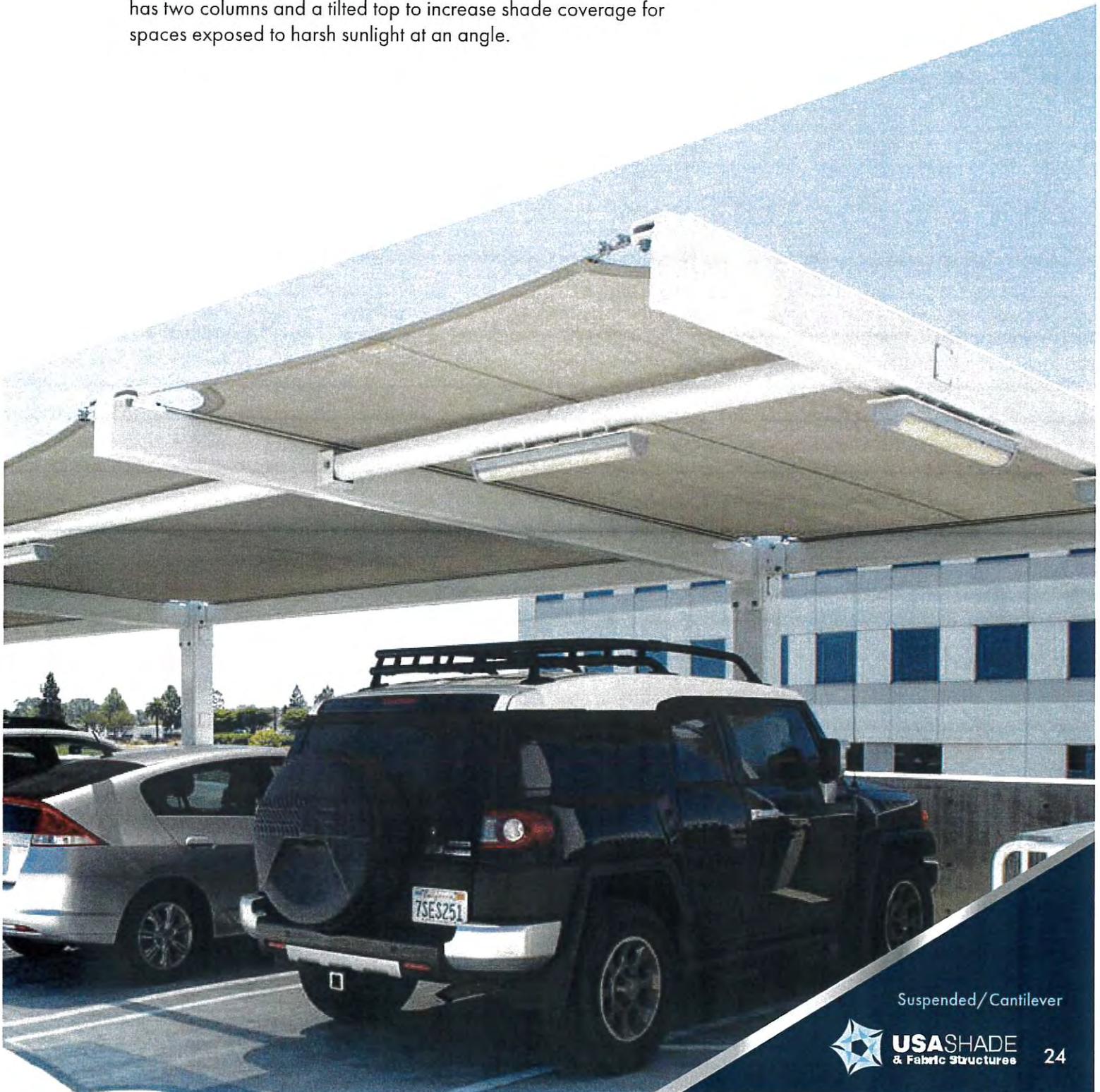
Combine singles into a variety of lengths and widths



Slanted Cantilever Wing Cabled

## Slanted Cantilever Wing Cabled

Much like the Full Cantilever Hip design, the Slanted Cantilever Wing has two columns and a tilted top to increase shade coverage for spaces exposed to harsh sunlight at an angle.



Suspended/Cantilever



Aquarius



Cantilever Disc

## Aquarius

14'x22' or 18'x26'

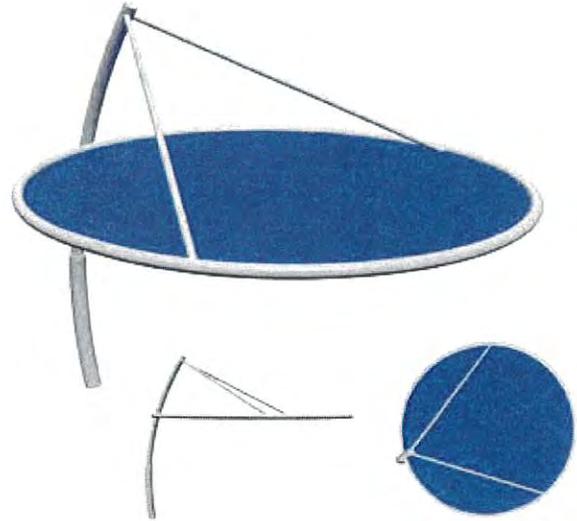
Our elegant Aquarius design is a sculptural shade solution with curved steel purlins and generous shade coverage.



## Cantilever Disc

15' to 20'

Our Cantilever Disc structure is a minimalistic design of a framed circular fabric shade suspended by a curved column.

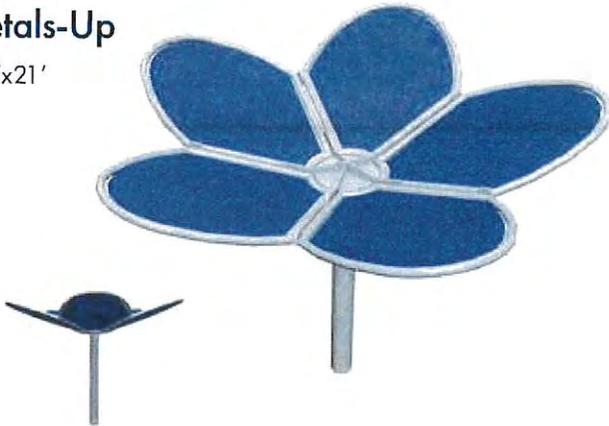


## Flower

Our Flower structure is a whimsical design constructed with five fabric panels available in Petals-Up, Petals-Flat or Petals-Down configurations.

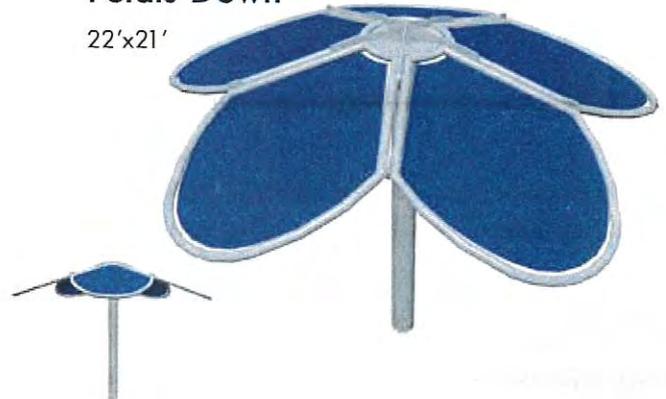
### Petals-Up

22'x21'



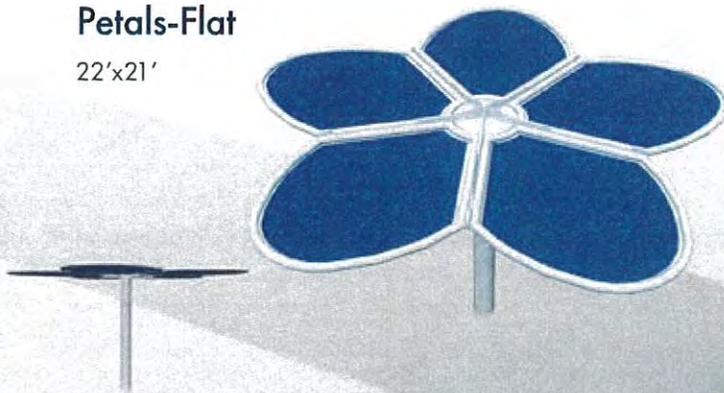
### Petals-Down

22'x21'



### Petals-Flat

22'x21'



Other



Pegasus



Lifeguard

## Lifeguard

8'x9' to 10'x11'

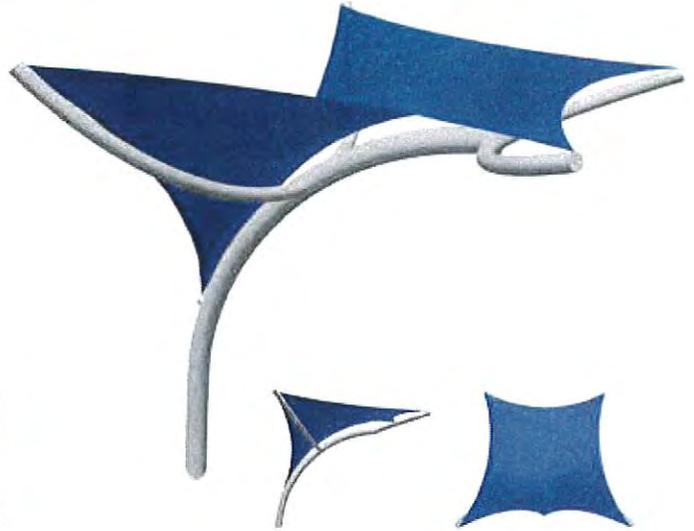
Our Lifeguard structures provide heat and UV protection for those who need to stay cool and be ready to make a water rescue at a moment's notice.



## Pegasus

12'x9', 16'x12' or 20'x16'

Pegasus is a distinctive and elegant fabric structure designed to make a strong architectural statement with shade.

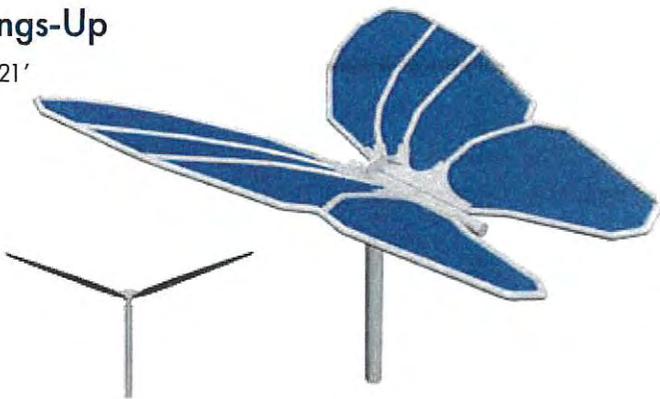


## Butterfly

The Butterfly is a unique structure constructed with eight fabric panels that can be adapted for Wings-Up, Wings-Flat or Wings-Down configurations.

### Wings-Up

22'x21'



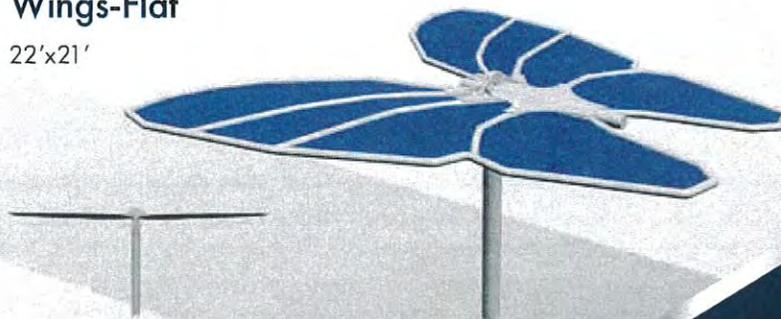
### Wings-Down

22'x21'



### Wings-Flat

22'x21'



Other



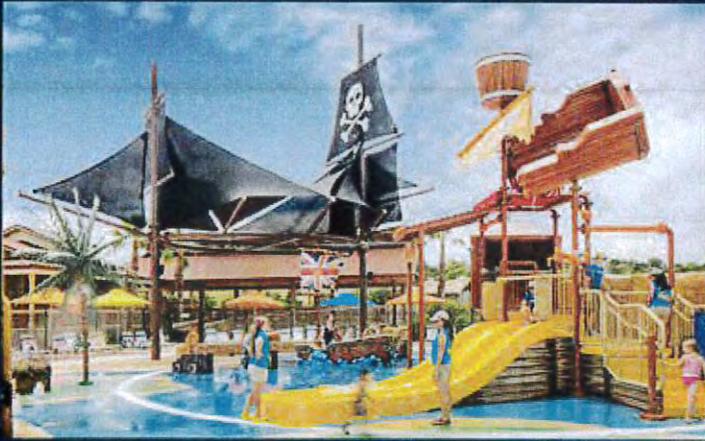
# Inspiration

At USA SHADE, our capabilities go above and beyond our standard offering to provide worldclass shade solutions for any type of project. Through collaboration with our customers, our design experts, and our seasoned engineers, we bring custom project ideas to life.



Inspiration





See more innovative and custom designs at  
[usa-shade.com](http://usa-shade.com)

# Finishes/Powder Coat Colors

Following a thorough cleaning, we apply your choice of finishes to our steel structures:



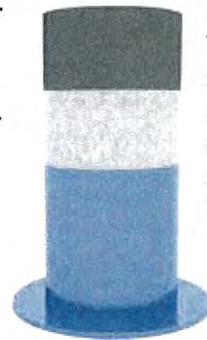
**Powder Coating**  
Available in a wide range of colors, this coating has higher surface hardness/scratch resistance than common liquid paints.

- Powder Coating
- Steel



**Zinc-Rich Primer**  
Added corrosion protection around areas such as pools, reclaimed water irrigation and salt water.

- Powder Coating
- Zinc-Rich Primer
- Steel



**Hot-Dip Galvanizing**  
The steel is dipped in zinc, then powder coated or wet-painted to resist corrosion in areas with salt water or high humidity.

- Powder Coating
- Hot-Dip Galvanizing
- Steel



**BLACK**  
115618BLK



**COBALT**  
115618CBB



**BLUE**  
115618BLU



**FOREST GREEN**  
115618FRG



**RED**  
115618RED



**YELLOW**  
115618YLW



**DARK BROWN**  
115618DBW



**LIGHT IVORY**  
115893



**WHITE**  
115618WHT



**TELE-GRAY**  
115892

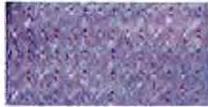
The samples of the colors of the steel and the fabrics shown in this document are for demonstrative purposes and are subject to the printing capacities. Please contact us for physical samples of fabric and steel colors. Contact your rep for warranty details.

# Fabrics

USA SHADE uses the best materials available including HDPE, a high-density polyethylene mesh, which can block out up to 98% of the sun's harmful UV-A and UV-B rays. We offer a variety of materials with varying degrees of UV and weather protection, fire retardance, and non-combustibility. All of our fabrics are easy to maintain, providing protective shade and vibrant color over a long period of time.

## SHADESURE™

PASSES: NFPA 701 / ASTM-E84



**ELECTRIC PURPLE**  
84% shade factor  
90% UV factor



**NAVY BLUE**  
90% shade factor  
94% UV factor



**ROYAL BLUE**  
86% shade factor  
94% UV factor



**LAGUNA BLUE**  
92% shade factor  
96% UV factor



**TURQUOISE**  
83% shade factor  
92% UV factor



**RAIN FOREST**  
89% shade factor  
96% UV factor



**OLIVE**  
93% shade factor  
97% UV factor



**ZESTY LIME**  
83% shade factor  
92% UV factor



**CHOCOLATE**  
92% shade factor  
93% UV factor



**CINNAMON**  
88% shade factor  
93% UV factor



**SUNFLOWER YELLOW**  
70% shade factor  
94% UV factor



**ARIZONA**  
86% shade factor  
91% UV factor



**DESERT SAND**  
80% shade factor  
92% UV factor



**TERRACOTTA**  
84% shade factor  
90% UV factor



**BLACK**  
95% shade factor  
96% UV factor



**SILVER**  
88% shade factor  
93% UV factor



**WHITE**  
57% shade factor  
86% UV factor



**RED**  
80% shade factor  
86% UV factor



**ATOMIC ORANGE**  
82% shade factor  
94% UV factor



**MULBERRY**  
90% shade factor  
91% UV factor

## COLOURSHADE® FR

PASSES: NFPA 701 / ASTM-E84 / CSFM TITLE 19



**BLUE**  
80% shade factor  
85% UV factor



**GREEN**  
80% shade factor  
85% UV factor



**RED**  
80% shade factor  
86% UV factor



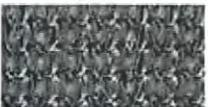
**TERRACOTTA**  
75% shade factor  
82% UV factor



**DESERT SAND**  
80% shade factor  
92% UV factor



**YELLOW**  
80% shade factor  
89% UV factor



**SILVER**  
80% shade factor  
81% UV factor

## EXTREME 32

PASSES: NFPA 701



**DESERT SAND**  
80% shade factor  
92% UV factor



**RAINFORREST**  
89% shade factor  
96% UV factor



**ROYAL BLUE**  
86% shade factor  
94% UV factor



**SILVER GREY**  
88% shade factor  
93% UV factor

Finishes and Fabrics



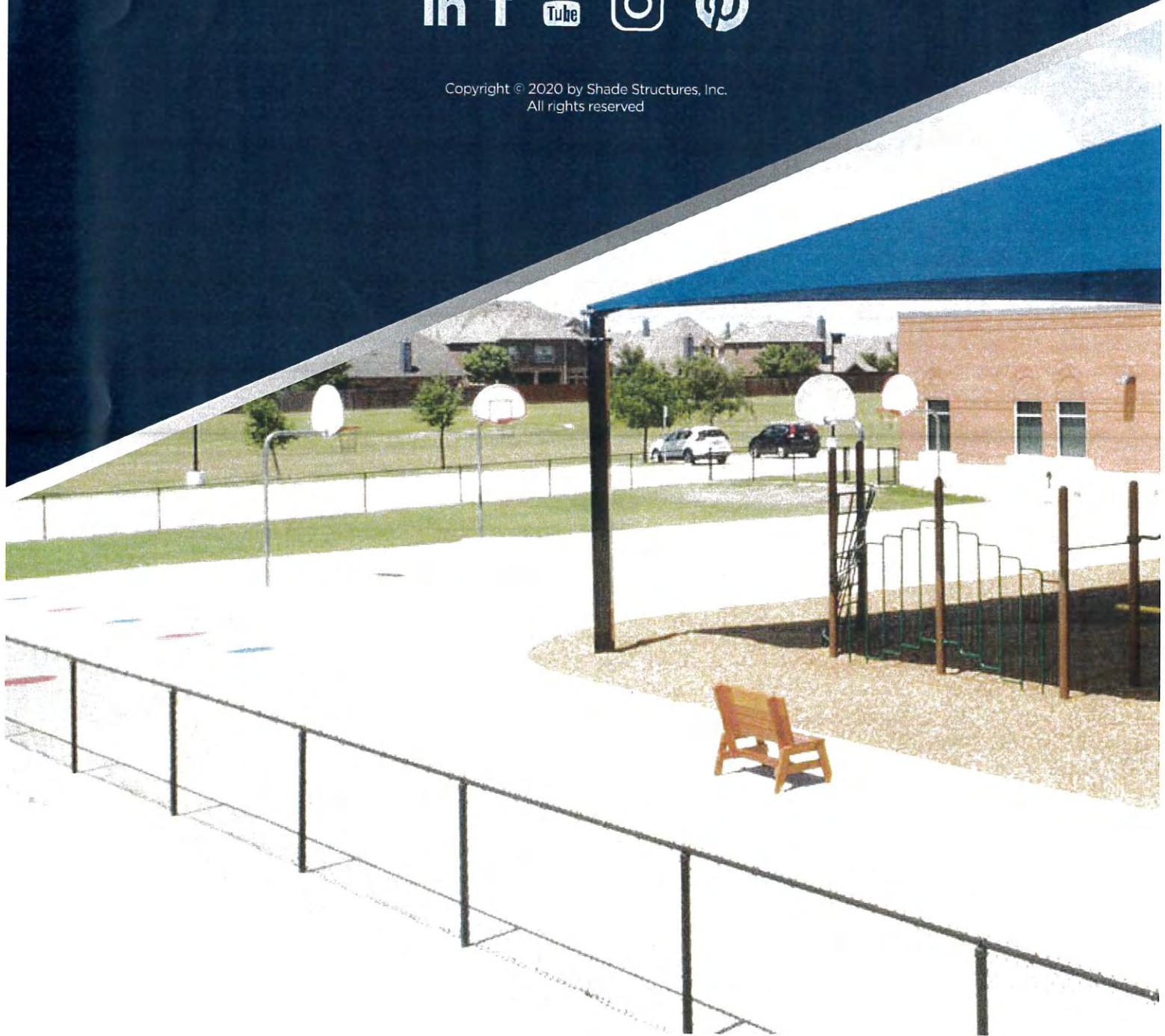
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**ORDINANCE NO. 2020-6**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF A COMBINED UTILITY REVENUE BOND, SERIES 2020, OF THE CITY OF WAYNE, NEBRASKA, IN THE PRINCIPAL AMOUNT OF NOT TO EXCEED THREE MILLION THIRTY THOUSAND DOLLARS (\$3,030,000), IN THE FORM OF A PROMISSORY NOTE ISSUED TO EVIDENCE INDEBTEDNESS TO THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY; APPROVING THE FORM OF SAID BOND (ISSUED AS A SINGLE PROMISSORY NOTE) AND RELATED LOAN AGREEMENT; PLEDGING AND HYPOTHECATING THE REVENUES AND EARNINGS OF THE WATERWORKS PLANT AND WATER SYSTEM AND THE SEWAGE DISPOSAL PLANT AND SANITARY SEWER SYSTEM OWNED BY THE CITY FOR THE PAYMENT OF SAID BOND; PROVIDING FOR THE ISSUANCE AND SALE OF SAID BOND; AUTHORIZING THE DELIVERY OF SAID BOND TO THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY; DETERMINING THAT INTEREST ON SAID BOND SHALL NOT BE EXCLUDABLE FROM GROSS INCOME FOR PURPOSES OF FEDERAL INCOME TAXATION; PROVIDING FOR THE DISPOSITION OF THE PROCEEDS OF SAID BOND AND ORDERING THE ORDINANCE PUBLISHED IN PAMPHLET FORM.**

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

Section 1. The Mayor and Council of the City of Wayne, Nebraska (the “City”) hereby find and determine as follows:

- A. The City owns and operates its own waterworks plant and water system, which represents a “revenue-producing facility” of the City under the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb., as amended; said plant and system as now existing together with all additional and improvements thereto hereafter acquired or constructed is herein referred to as the “Water System”;
- B. the City owns and operates its own sewage disposal plant and sanitary sewer system, which represents a “revenue-producing facility” of the City under the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb. 2007; said plant and system as now existing together with all additions and improvements thereto hereafter acquired or constructed are herein referred to as the “Sewer System”;
- C. the Water System and the Sewer System, as combined (the “Combined Utility”) further represent a revenue-producing undertaking and facility of the City under the provisions of Sections 18-1803 to 18-1805, R.R.S. Neb, as amended, for which the City is authorized to issue revenue bonds;
- D. the City currently has outstanding the following revenue bonds for which the revenues of the Combined Utility have been pledged:

Combined Utility Revenue Bond, in the stated original principal amount of \$1,012,414 relating to Project No. D311519 (the “NDEE Water Bond”), issued as a single promissory note to the Nebraska Department of Environment and Energy (formerly the Nebraska Department of Environmental Quality, referred to herein as “NDEE”) and payable from the revenues of the Combined Utility; and

Combined Utility Revenue Bond, in the stated original principal amount of \$5,199,020 relating to Project No. C317369 (the “NDEE Sewer Bond”), issued as

a single promissory note to the NDEE and payable from the revenues of the Combined Utility.

Combined Utility Revenue Bond, Series 2015, in the stated original principal amount of \$1,838,650 relating to Project No. C317032 (the “NDEE Sewer Bond No. 2”), issued as a single promissory note to the NDEE and payable from the revenues of the Combined Utility.

Combined Utility Revenue Bonds, Series 2019, date of original issue – May 7, 2019, in the stated original principal amount of \$820,000 (the “2019 Bonds” and together with the NDEE Sewer Bond, the NDEE Water Bond and the NDEE Sewer Bond No. 2, the “Outstanding Bonds”), payable from the revenues of the Combined Utility.

Other than the Outstanding Bonds, there are no other bonds, notes or other indebtedness for which the revenues of the Combined Utility have been pledged or made security.

- E. The ordinances authorizing the Outstanding Bonds permit the issuance of “Additional Bonds” secured by a pledge of the revenues of the Combined Utility on an equal basis with the Outstanding Bonds provided that the revenues of the Combined Utility (computed as more fully described in the ordinances authorizing the Outstanding Bonds) for the fiscal year next preceding the date of the authorization of such Additional Bonds, after deducting therefrom all costs of operation and maintenance of said Combined Utility for such fiscal year and before deduction of depreciation or interest as based on a certified public accountant's report shall have been at least equal to 1.25 times the average annual bond debt service requirements for the Outstanding Bonds to remain outstanding after the issuance of such Additional Bonds, any Additional Bonds then outstanding, and the Additional Bonds proposed to be issued.
- F. With respect to such conditions as set forth in Section 1(E) above, it is hereby determined that the revenues of the Combined Utility for fiscal year ended September 30, 2019 exceed 1.25 times the average annual bond debt service requirements of the Outstanding Bonds and the 2020 Bond (defined herein) proposed to be issued.
- G. The NDEE has approved a project of the City for its Water System consisting of construction of a new 16-inch transmission main from an existing wellfield north of the City to a standpipe located on the west side of the City, together with related appurtenant water system facilities and improvements, which has been designated as Project No. D311643 (the “2020 NDEE Project”), which project is more fully described in the “Loan Agreement between Nebraska Department of Environment and Energy and City of Wayne, Nebraska, NDEE Project No. D311623” (the “2020 NDEE Agreement”), and has agreed to lend from monies in NDEE’s Construction Loan Fund or from other sources in the total principal amount of not to exceed \$3,030,000, and in connection with such loan has agreed to accept one or more bonds payable from the revenues of the Combined Utility, and the Mayor and Council do hereby confirm, ratify and approve all prior actions of the City relative to approval and execution of the said 2020 NDEE Agreement;
- H. For the purposes of paying the costs of the 2020 NDEE Project as set forth in this Section 1, it is necessary and advisable for the City to issue its Combined Utility Revenue Bond, Series 2020, (the “2020 Bond”) in the principal amount of not to

exceed \$3,030,000, issued as a single promissory note to the NDEE and payable from the revenues of the Combined Utility.

Section 2. Unless the context shall clearly indicate otherwise, the following terms

(in addition to any terms herein defined by parentheses) shall have the following meanings when used in this Ordinance:

- (a) the term “Additional Bonds” shall mean any and all bonds including refunding bonds and notes, hereafter authorized and issued by the City pursuant to the terms of this Ordinance which are equal to lien to the Combined Utility Revenue Bond, Series 2020 and equally and ratably secured therewith including any such bonds issued pursuant to Section 11 of this Ordinance.
- (b) the term “Combined Utility” shall mean the Water System and the Sewer System of the City of Wayne.
- (c) the term “revenues” shall mean all the rates, rentals, fees, charges, earnings and other monies from any source whatever derived by the City of Wayne through its ownership and operation of the Combined Utility (including, without limitation, fees and charges for hook ups, taps and capital facilities charges).

Section 3. To provide for the payment of the costs of the Project, there shall be and there is hereby ordered issued the 2020 Bond, in the form of and evidenced by a single promissory note (sometimes referred to in this Ordinance, according to the context, as the “2020 NDEE Note” and sometimes as the “2020 Bond”) in the principal amount of not to exceed Three Million Thirty Thousand Dollars (\$3,030,000), with such 2020 NDEE Note to be substantially in such form and to have such payment terms as are set forth as included in the 2020 NDEE Agreement attached as Exhibit A to this Ordinance, which exhibit is by such reference incorporated herein as if fully set forth. In connection with the issuance of the 2020 NDEE Note, the City shall also enter into an agreement with NDEE previously described herein and entitled Loan Agreement Between Nebraska Department of Environment and Energy and the City of Wayne, Nebraska, NDEE Project No. D311643 in substantially the form set forth in Exhibit A to this Ordinance, which exhibit is by such reference incorporated herein as if fully set forth. The terms and conditions of the 2020 NDEE Note and 2020 NDEE Project are hereby approved and the Mayor and the City Clerk are hereby authorized to execute and deliver the 2020 NDEE Note and the 2020 Bond for and on behalf of the City in substantially the form approved but with such changes from the forms presented and attached hereto as such officers shall deem appropriate for and on behalf of the City.

Section 4. The City hereby pledges and hypothecates all revenues and earnings, now or hereafter received, or otherwise due and owing to the City, derived from the ownership and operation of the City's Combined Utility and all extensions and enlargements thereof, including any additions and improvements hereafter made, for the payment of principal of and interest on the 2020 Bond, the Outstanding Bonds and any Additional Bonds as the same fall due. So long as said revenues and earnings are sufficient to make all required payments of principal and interest with respect to the 2020 Bond, the Outstanding Bonds and any Additional Bonds, all such required payments with respect to each such issue shall be made in full from the respective sub-accounts in the Combined Utility Revenue Bond Account for each such series. In the event that such revenues and earnings are insufficient to meet the required payments from the Combined Utility Revenue Bond Account, such revenues and earnings shall be allocated to the 2020 Bond, the Outstanding Bonds and any such Additional Bonds, pro rata in accordance with the respective unpaid principal amounts then outstanding for the 2020 Bond, the Outstanding Bonds and such Additional Bonds. The pledge and hypothecation provided for the 2020 Bond, as provided for in this Ordinance, is intended to be and shall provide for a first and prior pledge of, lien upon and security interest in the revenues of the Combined Utility (subject to the right of the City to issue Additional Bonds as provided in this Ordinance) for the payment of principal of and interest on the 2020 Bond and the Outstanding Bonds, superior to any pledge or promise made with respect to any other indebtedness of the City as to its Combined Utility, and is intended to be a full exercise of the powers of the City provided for in Sections 18-1803 to 18-1805, R.R.S. Neb. 2012, as amended, with respect to its Combined Utility.

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

- (a) to provide for the payment of interest on and principal of the 2020 Bond, the Outstanding Bonds, and any Additional Bonds as such interest and principal become due;
- (b) to pay all reasonable costs of operation and maintenance of the Combined Utility, including adequate insurance as provided by this Ordinance and to pay for the necessary and reasonable repairs, replacements and extensions of said Combined Utility.
- (c) To establish and maintain a Combined Utility Bond Reserve Account as hereinafter set forth.

Section 6. The application and handling of all revenues collected, derived and to be derived by the City from the operation of the Combined Utility shall be governed by the terms of this Ordinance. There has been, and shall be, established a separate fund held by the City Treasurer, designated as the “Wayne Combined Utility Fund” (herein referred to as the “Combined Utility Fund”), into which all of the revenues of the Combined Utility are required to be deposited as and when received. Said Combined Utility are required to be deposited as and when reviewed. Said Combined Utility Fund shall be maintained so long as any of the Outstanding Bonds, the 2020 Bond and any Additional Bonds remain outstanding. Within the Combined Utility Fund, in accordance with the requirements of this Ordinance, the accounts and sub-accounts shall be as follows:

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

II. COMBINED UTILITY REVENUE BOND ACCOUNT: Deposits required to be made into the sub-account of the Combined Utility Revenue Bond Account for the Outstanding Bonds shall continue pursuant to the ordinances authorizing the Outstanding Bonds. Within the Combined Utility Revenue Bond Account there is hereby ordered established the 2020 Bond Payment Sub-account. Out of the Combined Utility Fund the City shall transfer into the Combined Utility Revenue Bond Account on or before the first day of each calendar month (or such other dates as may be determined in the 2020 NDEE Agreement) the amounts required to be deposited to the 2020 Bond Payment Sub-account in accordance with the following requirements for such sub-account:

Out of the Combined Utility Fund, the City shall pay into the Combined Utility Revenue Bond Account on or before the first day of each calendar month (or such other day of the month as may be determined in the 2020 NDEE Agreement) an amount sufficient to meet the payment requirements for each sub-account established therein. Upon the issuance of the 2020 Bond there is hereby ordered established the 2020 Bond Sub-account for purposes of providing the payments on the 2020 Bond as the same falls due. Beginning with the first day of the month which immediately follows the “Initiation of Operation” (as defined in the 2020 NDEE Agreement, hereafter referred to as the “Initiation of Operation”) of the Project, and continuing on the corresponding day of each month thereafter an amount which, when combined with additional equal monthly amounts to be deposited pursuant to this subparagraph prior to the next falling payment date for the 2020 Bond, will be sufficient to provide the required funds due on such payment date with respect to the 2020 Bond.

In any ordinance authorizing Additional Bonds a separate sub-account in the Combined Utility Revenue Bond Account shall be established for such Additional Bonds. Credits to the sub-accounts in the Combined Utility Revenue Bond Account shall be made at such times and in such amounts to provide sufficient

funds in each sub-accounts within the Combined Utility Revenue Bond Account shall be made without preference or priority as between sub-accounts and if amounts available are insufficient to make all credits as required the available funds shall be allocated among the sub-accounts for the Outstanding Bonds, the 2020 Bond, and the various issues of Additional Bonds pro rata in accordance with the respective unpaid principal amounts then outstanding for each issue. Each sub-account in the Combined Utility Revenue Bond Account shall constitute a separate account held in trust by the City Treasurer for the separate benefit of the issue of bonds for which it is established.

All such deposits to the Bond Payment Sub-accounts for shall be made in such amounts and at such times that there will be sufficient sums in each such sub-account to meet the payments required to be made by the City with respect to and the 2020 Bond as the same fall due. All such deposits are required to be made without preference or priority as between each such sub-account and any similar sub-account established for the 2020 Bond, the Outstanding Bonds or any issue of Additional Bonds and if amounts available are insufficient to make all deposits as required, the available funds shall be allocated on a pro rata basis in accordance with the terms of Section 4 of this Ordinance. In the event of the issuance of any Additional Bonds, the City shall in the ordinance authorizing their issuance provide for a related sub-account in the Combined Utility Revenue Bond Account and for deposits into such sub-account sufficient to make payments upon such Additional Bonds as the same fall due. Such sub-account and the deposits required to be made thereto shall have equal rank and standing with the Bond Payment Sub-accounts established for the 2020 Bond Payment Sub-account and the payments required to be made to each thereof. Each sub-account in the Combined Utility Revenue Bond Account shall constitute a separate fund held in trust by the City for the separate special benefit of the issue or series of bonds for which it is established.

- III. COMBINED UTILITY BOND RESERVE ACCOUNT: The Series 2020 Bonds, under the terms of the 2020 NDEE Agreement provides no requirement for establishment of a debt service reserve account. The City may determine and this Ordinance permits that there may be established a separate sub-account for any Additional Bonds issued on a parity with the Series 2020 Bond in such amount as shall be established as allowed by law and the terms of such Additional Bonds. In the event that at any time the amounts credited to such Sub-account are insufficient to make the payments due on Additional Bonds as the same fall due, the City shall apply the monies in the Reserve Account to pay such principal and interest and to prevent any default in payment with respect to such Additional Bonds. If the City shall use any of the monies in any sub-account for such purpose and such use shall reduce the balance of said sub-account below the required balance, the City shall transfer funds next available in each month from the revenues in the Combined Utility Fund, after making all required deposits in each such month to the Operation and Maintenance Account and the Combined Utility Revenue Bond Account until the required balance in the Reserve Sub-account has been restored. In issuing Additional Bonds other separate sub-accounts may be established by the Mayor and City Council. In no event shall the required balance for any such additional sub-account established for Additional Bonds in the Combined Utility Bond Reserve Account exceed an amount the lesser of (a) 1.25 times the average annual bond debt service payment requirement (b) the maximum annual debt service requirement or (c) ten percent of the principal amount of bonds issued, for the issue of Additional Bonds for which such reserve is established, or such lesser amount as may then be allowed under current tax law. The balance in any such additional sub-account may be funded from moneys on hand or from periodic deposits from revenues in the Combined Utilities Fund or from the proceeds of such Additional Bonds. Each sub-account in the Combined Utility Bond Reserve Account shall be of equal standing with each other sub-account in the Combined Utility Bond Reserve

Account and available moneys from the Combined Utilities Fund required to be credited to each such sub-account at any time shall be allocated on a pro rata basis between sub-accounts then requiring credits in accordance with the respective unpaid principal amounts then outstanding for each such issue for which there is a sub-account requiring credits. Each sub-account in the Combined Utility Bond Reserve Account shall constitute a separate account held in trust by the City Treasurer for the separate benefit of the issue of bonds for which it is established.

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

- 1) To fill any deficiency in the foregoing accounts.
- 2) For the purpose of calling under their option provisions the 2020 Bond or the Outstanding Bonds or for purchasing on the open market Additional Bonds.
- 3) For improvements, replacements, extensions and enlargements to the Combined Utility.
- 4) For any other legal municipal purpose provided that money expended for other municipal purposes does not exceed 50% of the amount on hand in the Surplus account as of the time of such expenditure.

Any ordinance authorizing Additional Bonds may provide for the creation of additional accounts, including a debt service reserve account, and sub-accounts in the Surplus Account or other accounts as may be established for such a reserve or other purposes as the Mayor and Council shall deem appropriate. In the event that there is a deficiency in any of the accounts described in the foregoing subsections I and II, all moneys in the Surplus Account shall be applied for the purpose described in (1) above prior to any application to the purposes described in (2), (3) or (4) above.

Moneys on deposit in the Combined Utility Fund shall be invested in such obligations as are permitted by law for cities of the class to which the City belongs, maturing at such times not later than ten years from the date of such investment and in such amounts as shall be determined by the City. Earnings from the investment of such moneys shall not be credited to the particular fund, account or sub-account from which the investment was made, but shall be treated as earnings of the Combined Utility and shall be treated as any other revenues of such Combined Utility. All investments held for the credit of any Fund or Account or sub-account may be sold when required to make the payment to be made from such Fund or Account or sub-account. Any moneys credited to the Combined Utility Fund or any Account or sub-account therein which are note invested shall be secured in the manner provided by law for the security of funds of cities of the class to which the City of Wayne belongs.

It is understood that the revenues of the Combined Utility are to be credited to the various accounts and sub-accounts hereinabove described and as set out in this Ordinance, the ordinances authorizing the Outstanding Bonds, and if within any period the revenues are insufficient to credit the required amounts in any of the said accounts or sub-accounts, the deficiencies shall be made up the following period or periods after payment into all accounts enjoying a prior claim on the revenues have been made in full.

Section 7. The City of Wayne shall keep proper books of record and account, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Combined Utility and the holder or holders of the 2020 Bond, the Outstanding Bonds and any Additional Bonds or any duly authorized agent or agents of such holders shall have the right at all reasonable times to inspect all records, accounts and data relating thereto and to inspect said Combined Utility and all properties comprising the same. Within one hundred twenty days following the close of each fiscal year the City shall cause an audit of such books and accounts to be made by an independent firm of certified public accountants, showing the receipts and disbursements for account of the Combined Utility and such audit will be available for inspection by the holders of any of the aforesaid bonds. Each such audit, in addition to whatever matters may be thought proper by the accountant to be included therein, shall include the following:

1. A statement in detail of the income and expenditures of each component of the Combined Utility for such fiscal year.
2. A balance sheet as of the end of such fiscal year.
3. A list of the insurance policies in force at the end of the fiscal year, setting out as to each policy the amount of the policy and risks covered, the name of the insurer and the expiration date of the policy.
4. The number of properties connected with the systems composing the Combined Utility at the end of the year and the number of Combined Utility customers at the end of the year.

All expenses incurred in the making of the audits required by this section shall be regarded and paid as a maintenance and operation expense. The City of Wayne shall furnish a copy of each such audit to the original purchaser of the 2020 Bond herein authorized, the Outstanding Bonds then outstanding and any series of Additional Bonds, and to the holder of at least twenty-five percent (25%) of any issue of bonds

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

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

Section 9. The City will carry adequate insurance on the Combined Utility in such amounts as are normally carried by private companies engaged in similar operations, including, without limiting the generality of the foregoing, fire and windstorm insurance, public liability insurance any insurance covering such risks as shall be recommended by a consulting engineer. The cost of all such insurance shall be regarded and paid as an operation and maintenance expense. All such insurance proceeds except from public liability insurance shall be used in making good the loss or damage in respect of which they were paid either by repairing the property damaged or replacing the property destroyed, and expenditures from said monies shall be made only upon a certificate issued by a consulting engineer and filed with the City Clerk stating that such proceeds, together with any other monies available for such purposes, are sufficient for the repair or replacement of any such properties, and when the City shall have been furnished with a certificate of a consulting engineer stating that the property damaged or destroyed has been fully paid for, the residue if any, of such insurance monies shall be transferred from the Surplus Account to the Combined Utility Revenue Bond Account to make up any deficiency in said Account, if any such deficiency exists. If the proceeds of any insurance shall be insufficient to repair or replace the property damaged or destroyed, the City may use and shall pay out for such purpose, to the extent of such deficiency, any money remaining in the Surplus Account. If in the opinion of a consulting engineer the proceeds of any insurance, together with any amount then available for that purpose in the Surplus Account shall be insufficient to fully

complete and pay for such repairs or replacements and if the City shall fail to supply such deficiency from other sources within a period of six months after receipt by the City of such insurance monies, or if in the opinion of a consulting engineer it is in the best interest of the City not to repair or replace all or any part of the damaged properties and that failure to repair or replace the damaged properties shall not affect the sufficiency of the income and revenue from the remaining properties to properly maintain and operate the same and provide funds for the funds for the Combined Utility Revenue Bond Account, as herein provided for, then such insurance monies to the extent not applied to repair or replace the damaged properties shall be deposited to the Surplus Account. If the holders of sixty per cent (60%) or more in principal amount of the 2020 Bond herein authorized, the Outstanding Bonds then outstanding, and any Additional Bonds at the time outstanding shall at any time direct the City in writing to do so, then any insurance monies then in the hands of the City may be used for extensions and betterments of said Combined Utility or applied to the pro rata payment of the principal of and accrued interest on all said bonds then outstanding. The proceeds of any and all policies for public liability shall be paid to and be held by the City Treasurer and used in paying the claims on account of which they were received.

Section 10. The City will maintain the Combined Utility in good condition and operate the same in an efficient manner and at a reasonable cost. The City agrees with the holder or holders from time to time of the 2020 Bond that the City will continue to own, free from all liens and encumbrances, except the liens and pledges provided for in this Ordinance and will adequately maintain and efficiently operate said Combined Utility; provided, however, the City may dispose of property which is recommended for disposal by the manager or superintendent of the utilities, or an independent Consulting Engineer and which is determined as a matter of record by the Council to have become obsolete, non-productive or otherwise unusable to the advantage of the City.

Section 11. Nothing in this Ordinance shall be construed in such a manner as to prevent the issuance by the City of Wayne of Additional Bonds payable from the revenues of the Combined Utility, which Additional Bonds shall be on a parity with the lien of the 2020 Bond and the Outstanding Bonds, and equally and ratably secured therewith and entitled to the security and benefits of this Ordinance; provided however, that before any such Additional Bonds are actually issued, the revenues of the Combined Utility,

for the fiscal year next preceding the date of the authorization of such Additional Bonds, after deducting therefrom all costs of operation and maintenance of said Combined Utility for such fiscal year and before deduction of depreciation or interest as based on a certified public accountant's report shall have been equal to 1.25 times the average annual bond requirements of the 2020 Bond herein authorized, the Outstanding Bonds then outstanding and any Additional Bonds then outstanding and the Additional Bonds proposed to be issued, which average annual bond requirements shall be determined by adding all of the principal and interest which will become due when computed to the absolute maturity of the 2020 Bond herein authorized, the Outstanding Bonds and Additional Bonds, if any, all as then outstanding and all of the principal and interest of the additional Bonds to be issued, and dividing such total by the number of years remaining that the longest bond of any such issue of bonds (including the Additional Bonds to be issued) has to run to maturity; provided, however, that in the event that the Mayor and Council determine it necessary and advisable for the City to issue Additional Bonds payable from the revenues of the Combined Utility, which bonds are on a parity with the lien of the 2020 Bond herein authorized and the Outstanding Bonds and equally and ratably secured therewith, and the audit for the fiscal year next preceding the date of authorization of such Additional Bonds is not yet available, the City may issue such Additional Bonds if the audit for the fiscal year immediately preceding such next preceding fiscal year shows that the revenues of the Combined Utility for such fiscal year (so immediately preceding such next fiscal year), after deducting therefrom all costs of operation and maintenance but before deduction of depreciation or interest, shall have been equal to 1.25 times the average annual bond requirements of the 2020 Bond herein authorized, the Outstanding Bonds, any Additional Bonds then outstanding and any Additional Bonds to be issued, and if the City Treasurer certifies that the unaudited books and records of the Combined Utility for the fiscal year next preceding the date of authorization of such Additional Bonds do not show any variance in operating results which would be sufficient to evidence a reduction in debt service coverage below 1.25 times the average annual bond requirements of the 2020 Bond herein authorized, the Outstanding Bonds, any Additional Bonds then outstanding and the Additional Bonds proposed to be issued.

In the event any change in the rates, rentals and charges for the use and service of the Combined

Utility or any part thereof has been made during the preceding fiscal year or during the interval between the end of such fiscal year and the issuance of such Additional Bonds, or in the event the City shall covenant in the ordinance or resolution authorizing the issuance of such Additional Bonds to impose, effective upon the issuance of such Additional Bonds, higher rates, rentals and charges for such use and service, compliance with the provisions of this Section 11 of this Ordinance may be evidenced by a certificate of an independent Consulting Engineer or firm of engineers or Certified Public Accountant or firm of independent Certified Public Accountants to be filed with the City Clerk prior to the issuance of any such Additional Bonds. Such certificate shall state fully the facts upon which such certificate is based, and if it is a certificate of the Consulting Engineer or firm of Consulting Engineers shall have attached thereto the certified financial statement for the fiscal year next preceding the date of authorization of such Additional Bonds used by the Engineer or firm of Engineers in arriving at the conclusion stated in said certificate. The Consulting Engineer or independent Certified Public Accountant of the City shall, in determining the earnings for such fiscal year, adjust the collections to reflect the result as if such changed rates, rentals and charges, or such higher rates, rentals and charges had been in existence for such entire preceding fiscal year period, and the amount of such net collections and adjusted earnings as aforesaid shall be conclusive evidence and the only evidence required to show compliance with the provisions and requirements of this Section 11 of this Ordinance. A certificate of an independent Consulting Engineer or firm of engineers or Certified Public Accountant or firm of independent Certified Public Accountants contemplated herein shall not be required to evidence compliance with the provisions of this Section 11 if the City Council shall determine the revenues of the Combined Utility for the fiscal year next preceding the date of the authorization of such Additional Bonds, based upon a certified public accountant's report (in accordance with the terms of the paragraph immediately preceding), comply without adjustment with the requirements of this Section 11.

If the City shall find it desirable, it shall also have the right when issuing Additional Bonds to combine with its electric, gas, water and sewer systems any other utilities of the City authorized to be combined under Sections 18-1803 through 18-1805, R.R.S. Neb. 2012, including, but not limited to, a solid waste disposal system or such other system as may constitute a revenue producing facility or undertaking,

and to cause all of the revenues of such Combined Utility systems to be paid into the Combined Utility Fund, which Fund may be appropriately redesignated, and to provide that the 2020 Bond herein authorized, the Outstanding Bonds and any Additional Bonds previously issued, all as then outstanding, and the proposed issue of Additional Bonds shall be payable from the revenues of such Combined Utility and shall stand on a parity and in equality as to security and payment, provided, however, no such utility shall be combined with the electric, gas, water and sewer systems as contemplated in this paragraph unless the City is current with all the payments required to be made into the accounts set out in this Ordinance and the revenues of the Combined Utility shall satisfy one or the other of the requirements for Additional Bonds provided above in this Section 11. For purposes of meeting such requirement, the definition of revenues shall be altered to include the gross revenues of the additional utility or utilities and there shall be deducted from such revenues the ordinary expenses of operating and maintaining the additional utility or utilities (not including any deduction for depreciation or interest) and for such purposes any engineer or accountant furnishing projections may take into consideration the factors similar to those described above with respect to such additional utility or utilities. Revenues of the additional utility or utilities shall be based upon the report or reports of independent certified public accountants in the same manner as is required above.

For purposes of this ordinance, refunding bonds, which are issued to take up and pay off any or all of the 2020 Bond herein authorized, the Outstanding Bonds or Additional Bonds then outstanding, may be issued and shall themselves qualify as Additional Bonds having equal lien and priority as to the revenues of the Combined Utility with any of the 2020 Bond herein authorized, the Outstanding Bonds or Additional Bonds which are to remain outstanding after the completion of such refunding provided that the following conditions are met:

- (1) if the proceeds of such refunding bonds are not to be applied immediately to the taking up and paying off of the bonds to be refunded from their proceeds, then such refunding bonds must provide by their terms that they shall be junior in lien to the 2020 Bond herein authorized, the Outstanding Bonds or Additional Bonds, as shall be then outstanding, until the time of application of the proceeds of such refunding bonds to the taking up and paying off of the bonds to be refunded by deposit with the designated paying agent pursuant to Section 10-126, R.R.S. Neb. 2012 (or any successor statutory provision thereto) or until the bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner;

(2) such refunding bonds shall qualify as Additional Bonds under the revenues test described above in this Section, provided that in computing average annual bond requirements, all payments of principal and interest due on such refunding bonds from the time of the issuance to the time of application of the proceeds thereof by deposit with the designated paying agent pursuant to Section 10-126, R.R.S. Neb. 2012 (or any successor statutory provision thereto) or until the bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner, shall be excluded from such computation to the extent that such principal or interest are payable from other sources (such as bond proceeds or investment earnings thereon) or from moneys in the Surplus Account, and all payments of principal and interest due on the bonds to be refunded, from and after the time of the deposit with the designated paying agent pursuant to Section 10-126 R.R.S. Neb. 2012 (or any successor statutory provision thereto) or the time when such bonds to be refunded under the terms of their authorizing ordinance or ordinances are no longer deemed to be outstanding, whichever occurs sooner, shall also be excluded from such computation.

Section 12. Nothing herein contained shall prevent the City from issuing bonds, revenue notes, or other forms of indebtedness, the payment of principal and interest of which is a charge upon all or a portion of the revenues of the Combined Utility, junior or inferior to the 2020 Bond herein authorized, the Outstanding Bonds, and to the payments to be made into the Operation and Maintenance Account, Combined Utility Revenue Bond Account described in Section 6 hereof and the City shall have the right to pay interest thereon and the principal thereof as long as no deficiency exists in the payments into such Accounts, from funds available for improvements and enlargements to the Combined Utility or from other funds which are available for such debt service.

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

Section 14. While the 2020 Bond is outstanding, the City will render bills to all customers for its Combined Utility services. If bills are not paid within sixty days after due, such portion of the Combined Utility service for which payment for services is delinquent, will be discontinued subject to state and federal laws governing the termination of utility service. The City agrees that it will order that portion of such Combined Utility service shut off on all properties served by the Combined Utility System where there are delinquent Combined Utility use charges and will make appropriate charge for use of all properties of the

City connected to the Combined Utility systems, all as and to the extent permitted by law.

Section 15. Except for amendments which are required for the correction of language to cure any ambiguity or defective or inconsistent provisions, omission or mistake or manifest error contained herein, no changes additions or alterations of any kind shall be made by the City in the provisions of this Ordinance in any manner; provided, however, that from time to time the holder of the 2020 Bond by an instrument in writing signed by such holder and filed with the City Clerk shall have power to assent to and authorize any modification of the rights and obligations of the City and of the holder of the 2020 Bond and interest thereon and the provisions of this Ordinance that shall be proposed by the City, and any action authorized to be taken with the assent and authority given as aforesaid of the holder of said bond shall be binding upon such holder and upon the City as fully as though such action were specifically and expressly authorized by the terms of this Ordinance. Any modification of the provisions of this Ordinance made as aforesaid shall be set forth in a supplemental ordinance to be adopted by the Mayor and Council of said City.

Section 16. So long as the 2020 Bond is outstanding, each of the obligations, duties, limitations and restraints imposed upon the City by this Ordinance shall be deemed to be a covenant between the City and the holder of said bond, and this Ordinance and every provision and covenant hereof shall constitute a contract of the City with every holder from time to time of said bond. Any holder of the 2020 Bond may by mandamus or other appropriate action or proceeding at law or in equity in any court of competent jurisdiction enforce and compel performance of this Ordinance and every provision and covenant thereof including, without limiting the generality of the foregoing, the enforcement of the performance of all duties required by the City by this Ordinance and the applicable laws of the State of Nebraska, including in such duties the making and collecting of sufficient rates, rentals, fees or charges for the use and service of the Combined Utility, the segregation of the revenues of the Combined Utility and the application thereof to the respective Fund, Accounts and sub-accounts referred to and described in Section 6 of this Ordinance. Any holder of the 2020 Bond herein authorized or Additional Bonds shall, after default in payment, have

the right to request the appointment of a receiver for the Combined Utility.

Section 17. The City's obligations under this Ordinance and the liens, pledges, covenants and agreements of the City herein made or provided for with respect to the 2020 Bond, shall be fully discharged and satisfied and such bond shall no longer be deemed outstanding hereunder if such bond shall have been purchased and cancelled by the City or when payment of the principal of and interest thereon to the respective date of maturity or redemption (a) shall have been made or caused to be made in accordance with the terms thereof, or (b) shall have been provided for by depositing with a national or state bank having trust powers or trust company, in trust solely for such payment, (i) sufficient money to make such payment and/or (ii) direct general obligations of the United States government or obligations guaranteed by the United States government ("Deposit Securities") in such amount and bearing interest payable and maturing or redeemable at stated fixed prices at the option of the holder as to principal, at such time or times, as will ensure the availability of sufficient money to make such payment; provided, however, that, with respect to the 2020 Bond if it is to be paid prior to maturity, the City shall have duly given notice of redemption of such bond as provided by law or made irrevocable provisions for the giving of such notice. Any such money so deposited with a bank or trust company may be invested and reinvested in Deposit Securities and all interest and income from such Deposit Securities in the hands of such bank or trust company, in excess of the amount required to pay principal of and interest on the bond for which such monies were deposited, shall be paid over to the City as and when collected. With respect to any deposit made for purposes of satisfying the 2020 Bond under this Section 17, there shall be furnished to NDEE and the Nebraska Investment Finance Authority ("NIFA") an opinion of nationally recognized bond counsel that such deposit for payment of the 2020 Bond will not adversely affect the exclusion for interest from gross income for federal tax purposes on any bonds issued by NIFA to provide funds for deposit into the Nebraska Wastewater Facilities Construction Loan Fund and the furnishing of such opinion shall be a condition required to be satisfied prior to the making of any such deposit in trust for payment and satisfaction with

respect to the 2020 Bond unless the 2020 Bond is to be prepaid and redeemed within 60 days from the time of such deposit.

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

Section 19. The Mayor and Council hereby expressly declare the intent and understanding that interest on the 2020 Bond shall not be excludable from gross income under the terms of Section 103 of the Internal Revenue Code of 1986, as amended, and the City as issuer shall not file any information report with respect to the issuance of the 2020 Bond pursuant to Section 149(e) of said Code.

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

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

PASSED AND APPROVED this 7<sup>th</sup> day of April, 2020.

THE CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_  
Mayor

ATTEST:

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

[SEAL]

Exhibit "A"

Loan Agreement

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**LOAN AGREEMENT**  
(Governmental Borrower)

Between

**NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY**

and

**CITY OF WAYNE, NEBRASKA**

**NDEE PROJECT NO. D311643**

DATED AS OF \_\_\_\_\_, 2020

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NEBRASKA DRINKING WATER FACILITIES LOAN FUND  
LOAN AGREEMENT

THIS LOAN AGREEMENT No. D311643 (the "Loan Agreement"), is entered into by and between the STATE OF NEBRASKA, acting by and through the Nebraska Department of Environment and Energy ("NDEE") and the CITY OF WAYNE, NEBRASKA (the "Borrower").

W I T N E S S E T H :

WHEREAS, the federal Safe Drinking Water Act, including the Safe Drinking Water Amendments Act of 1996, as amended (the "Federal Act") established a state revolving fund program and, to fund the state revolving fund program, the United States Environmental Protection Agency ("EPA") will make annual capitalization grants to the states under CFDA #66.468, (Safe Drinking Water State Revolving Fund), on the condition that each state provide an appropriate match for such state's revolving fund; and

WHEREAS, Neb. Rev. Stat. §71-5318 empowers the Director of the NDEE to loan available funds in the Loan Fund (as defined herein) to borrowers pursuant to the Drinking Water State Revolving Fund Act, Neb. Rev. Stat. §71-5314 to 71-5327, as amended (the "Act"), and rules and regulations adopted under such Act; and

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

WHEREAS, the Nebraska Investment Finance Authority ("NIFA") is authorized under Neb. Rev. Stat. §58-201 et seq. and the Act to issue revenue bonds for the purpose of providing funds for the NDEE to loan to Borrowers within the State of Nebraska for the acquisition, construction, improvement, repair, rehabilitation or extension of safe drinking water projects (as defined in the Act), in order to provide the state match requirements of the Federal Act; and

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

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

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

WHEREAS, the project to be financed under this Loan Agreement and described in Exhibit 1 (the "Project") is a safe drinking water project as defined in Neb. Rev. Stat. §71-5316(9); and

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

WHEREAS, the project is included in the most recent Drinking Water State Revolving Fund Intended Use Plan developed by the NDEE and approved by the Nebraska Environmental Quality Council and EPA; and

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

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

## Article I

### DEFINITIONS

The following terms as used in this Loan Agreement shall, unless the context clearly requires otherwise, have the following meanings:

"Act" means the Drinking Water State Revolving Fund Act, Neb. Rev. Stat. §§71-5314 to 71-5327, as amended.

"Additional Revenue Obligations" means any obligation for the payment of money undertaken by the Borrower which is payable from or secured by a pledge of, or lien upon, the System Revenues incurred after the date of execution and delivery of this Loan Agreement, and all Existing Revenue Obligations.

"Authorized Representative" means the person or persons authorized pursuant to a resolution or ordinance of the governing body of the Borrower to perform any act or execute any document relating to this Loan Agreement.

"Borrower" means City of Wayne, Nebraska that is a party to and is described in the first paragraph of this Loan Agreement, and its successors and assignees.

"Combined Utility" means the revenue-producing facilities owned by the Borrower and consisting of the Sewer System and the Water System.

"Combined Utility User Charge" means the revenues derived by the Borrower from the fees and charges for the use and services furnished by or through the Borrower's Combined Utility. Revenues of the Combined Utility shall include, without limitation, (a) receipts from all charges imposed upon users for services and (b) receipts from hookup fees, tap fees, capital facilities charges connected with the use or right to use the Combined Utility or any part thereof (specifically including the Project) whether any such receipts (as described in (a) or (b) of this sentence) are directly received by the Borrower from customers or indirectly through interlocal or other agreements with other political subdivisions.

"Cut-off Date" means the date established by the NDEE at the Project's final inspection prior to which the Borrower will make the final disbursement request for eligible Project Costs.

"Due Date" means the dates specified for payment of principal and interest on the Loan as specified in Section 2.04.

"Event of Default" means any occurrence of the following events:

(a) Failure by the Borrower to pay, or cause to be paid, any Loan Repayment required to be paid hereunder when due.

(b) Failure by the Borrower to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, other than as referred to in paragraph (a) of this definition, which failure shall continue for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the Borrower by the NDEE, unless the NDEE shall agree in writing to an extension of such time prior to its expiration. If the failure stated in such notice is correctable but cannot be corrected within the applicable period, the NDEE may not unreasonably withhold its consent to an extension of such time up to 90 days from the delivery of the written notice referred to above, if corrective action is instituted by the Borrower within the applicable period and diligently pursued until the Event of Default is corrected.

(c) Failure by the NDEE to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement which shall continue for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the NDEE by the Borrower, unless the Borrower shall agree in writing to an extension of such time prior to its expiration. If the failure stated in such notice is correctable but cannot be corrected within the applicable period, the Borrower may not unreasonably withhold its consent to an extension of such time up to 90 days from the delivery of the written notice referred to above if corrective action is instituted by the NDEE within the applicable period and diligently pursued until the Event of Default is corrected.

(d) The discovery that any representation made by or on behalf of the Borrower in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan, is false or misleading in any material respect.

(e) The discovery that any representation made by or on behalf of the NDEE in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement, is false or misleading in any material respect.

(f) The filing of a petition by or against the Borrower under any federal or state bankruptcy or insolvency law or other similar law in effect on the date of this Loan Agreement or thereafter enacted, unless, in the case of any such petition filed against the Borrower, such petition is dismissed within 30 days after such filing and such dismissal shall be final and not subject to appeal.

(g) Failure of the Borrower generally to pay its debts as such debts become due.

(h) Any event of default under any Existing Revenue Obligation or Additional Revenue Obligation of the Borrower.

*"Existing Revenue Obligation"* means any obligation for a payment of money undertaken by the Borrower which is payable from or secured by a pledge of, or lien upon, the Combined Utility User Charge existing or outstanding at the time of execution and delivery of this Loan Agreement by the Borrower.

*"GAAP"* means generally accepted accounting principles as applicable to the Public Water System.

*"Indebtedness"* means any financial obligation of the Borrower evidenced by an instrument executed by the Borrower, including this Loan, Existing Revenue Obligations, Additional Revenue Obligations, general obligation bonds or notes, leases or lease-purchase agreements or similar financial transactions.

*"Initiation of Operation"* means the date on which the Borrower places the Project in operation or the Project is capable of being placed in operation for the purposes for which it was planned, designed and built.

*"Late Payment"* means any payment that is not received within 15 days of the due date.

*"Loan"* means the loan made by the NDEE to the Borrower to finance or refinance all or a portion of the Project Costs pursuant to this Loan Agreement.

*"Loan Agreement"* means this Loan Agreement, including the Attachments hereto, as it may be properly supplemented, modified or amended.

*"Loan Amount"* means the actual principal amount (not to exceed the amount specified in Section 2.01 hereof) of the Loan which the NDEE disburses to the Borrower pursuant to this Loan Agreement.

*"Loan Fund"* means the Drinking Water Facilities Loan Fund created pursuant to Neb. Rev. Stat. §71-5318(1).

*"Loan Repayments"* means the payments of the Loan required to be made by the Borrower pursuant to Section 2.05 of this Loan Agreement.

"Loan Terms" means the terms of this Loan Agreement provided in Article II of this Loan Agreement.

"NDEE" means the Nebraska Department of Environment and Energy established pursuant to Neb. Rev. Stat. §81-1501 et seq., as amended.

"NIFA" means the Nebraska Investment Finance Authority, a public body politic and corporate and an instrumentality of the State, and its successors and assigns established pursuant to Neb. Rev. Stat. §58-201 et seq., as amended.

"Note" means a promissory note of the Borrower with respect to the Loan in the form of Attachment F to this Loan Agreement.

"Ordinance" means Ordinance No. \_\_\_\_\_ passed and approved by the governing body of the Borrower on \_\_\_\_\_, 2020, as the same may be amended from time to time.

"Project" means the acquisition, construction, improvement, repair, rehabilitation or extension of the Public Water System, including land, owned or operated by the Borrower and described in Exhibit 1 to this Loan Agreement, which constitutes a safe drinking water project for which the NDEE is making a Loan to the Borrower pursuant to this Loan Agreement.

"Project Costs" means costs or expenses necessary or incident to the Project which are directly attributable thereto and which in the determination of the NDEE are eligible under the Act and the Federal Act. Project Costs are described in Attachment B.

"Public Water System" means a Public Water System, as defined in Neb. Rev. Stat. §71-5301(10a).

"Regulations" means the "Nebraska Department of Environmental Quality, Title 131 – Rules and regulations for the Wastewater Treatment Facilities and Drinking Water Construction Assistance Programs", and any amendments thereto promulgated by the NDEE pursuant to the Act.

"Retainage" means construction costs held back by the Borrower from the payments due to the contractor to assure satisfactory completion of the construction contract.

"Revenue Obligation(s)" means (a) the Loan; (b) any revenue bonds of the Borrower outstanding from time to time and payable from, or secured by a pledge of or lien upon, System Revenues; and (c) any capital leases entered into by the Borrower the rentals of which are payable from, or secured by a pledge of or lien upon, System Revenues.

"Sanitary Sewer Plant and System" (or the "Sewer System") shall mean the sanitary sewer plant and system of the City as now existing or hereafter acquired and all additions, extensions and improvements thereto hereafter made.

"SEC Rule" means Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as such rule may be amended from time to time or such other similar rule regarding disclosure of information in securities transactions.

"State" means the State of Nebraska acting, unless otherwise specifically indicated, by and through the NDEE and its successors and assigns.

"Trustee" means the trustee under any trust indenture with respect to the revenue bonds the proceeds of which are deposited in the Loan Fund.

"Waterworks Plant and Distribution System" (or the "Water System") means the collection, treatment, storage or distribution facilities of the Borrower designed to provide the public with piped water fit for human consumption as now existing or hereafter acquired and all additions, extensions and improvements thereto hereafter made.

## Article II

### LOAN CONDITIONS AND TERMS

**Section 2.01. Amount of the Loan.** Subject to all of the terms, provisions and conditions of this Loan Agreement, and subject to the availability of State and federal funds, the NDEE will loan an amount not to exceed three million, thirty thousand dollars (\$3,030,000) to the Borrower to pay a portion of the Project Costs in Attachment B hereto.

This Loan also includes DWSRF Loan Forgiveness of up to 15% of the eligible project costs up to a ceiling of four hundred fifty-four thousand, five hundred dollars (\$454,500). The forgiveness of a portion of the principal of the Loan, if any, shall be effective only upon the completion of the Project in accordance with this Loan Agreement, including compliance with the requirements of DWSRF, as determined by the NDEE, and Initiation of Operation. The amount of such Loan Forgiveness shall be stated on the final Attachment A repayment schedule prepared by the NDEE following disbursement of the full Loan Amount and Initiation of Operation.

The actual amount of the Loan and any Loan Forgiveness may be reduced without revision of any other terms, provisions or conditions of this Loan Agreement, other than adjustment by the NDEE to the Loan Repayment Schedule set forth in Attachment A hereto, to reflect the Loan Amount (and any amount of Loan Forgiveness), based upon reductions in the actual total Project Costs as determined following the completion of construction of the Project. The Borrower must make provision for the payment of all costs exceeding the Loan Amount, provided that the Borrower may request that the NDEE provide supplemental loan funds through a separate loan agreement, the approval of which shall be dependent on availability of unobligated funds in the Loan Fund and the NDEE's subsequent written approval of such request in its sole discretion upon such additional terms, conditions and covenants as the NDEE may then require.

**Section 2.02. Term of the Loan.** The Borrower agrees to begin repayment of principal and interest on the Loan Amount within one year from the date of Initiation of Operation, but no later than three years from the date of the Loan, whichever occurs first, and to repay such Loan in full no later than 20 years from Initiation of Operation and to pay all principal, interest, administrative fees and penalty fees when due.

**Section 2.03. Interest Rate.** The interest rate on the Loan Amount is determined by the NDEE pursuant to Regulations and the Intended Use Plan. The interest rate on this loan amount disbursed to the Borrower pursuant to this Loan Agreement during the period of construction shall be 0.5% and after the date of Initiation of Operation shall be 1.5% per annum (calculated on the basis of a year equaling 360 days made up of 12 months of 30 days each). For the purposes of this paragraph "construction" shall mean the period between the date of this Loan Agreement and the date of Initiation of Operation.

**Section 2.04. Disbursement of Loan.** Upon receipt of a disbursement request for work completed accompanied by any certification from the Borrower required by the NDEE, the NDEE shall make progress disbursements that correspond to such request of the Loan Amount to be used by the Borrower for Project Costs. The Borrower may obtain a copy of the disbursement record upon request to the NDEE. Each disbursement shall be upon warrant by the State and shall be equal to that portion of the unobligated principal of the Loan Amount incurred for Project Costs to the date of the request for disbursement from the Borrower. Submitted requests for disbursement must be supported by proper invoices for Project Costs, a certificate of the Authorized Representative to the effect that all representations made in this Loan Agreement remain true as of the date of the request and that no adverse developments affecting the financial condition of the Borrower or its ability to complete the Project or to repay the Loan have occurred since the date of this Loan Agreement, and other documentation acceptable to and approved by the NDEE. Disbursement requests should be submitted before the first or the fifteenth of each month to facilitate timely processing. All disbursement requests must be made prior to the Cut-off Date established by the NDEE.

The Borrower may request disbursement of the Loan Amount for eligible Project Costs, when such Project Costs have been incurred and are due and payable to project contractors. However, actual payment of such Project Costs by the Borrower is not required as a condition of a payment request. Any Retainage

withheld by the Borrower corresponding to the progress payment made to any contractor will be withheld by the NDEE until such Retainage is either reduced or released to the contractor by the Borrower.

The Borrower shall submit a draft of the operation and maintenance manual for the Project to the Nebraska Department of Health and Human Service, Division of Public Health (NDHHS-DPH) before disbursements exceed 75% of the Project Costs. The Borrower shall submit a final operation and maintenance manual to the NDHHS-DPH and receive approval before disbursements exceed 95% of the Project Costs or final disbursement, whichever comes first.

#### **Section 2.05. Loan Payments.**

(a) **Principal and Interest Payments.** The Borrower shall pay to the NDEE, or at the direction of the NDEE, to NIFA or the Trustee on or before the due dates specified below, but only from the sources specified in Section 3.02 hereof, appropriate installments of principal and interest until all principal and interest due on the Loan to the NDEE has been paid in full. For administrative fee payments see Section 2.06. Installments of principal and interest shall be paid semiannually on June 15 and December 15 of each year in accordance with the Loan Repayment Schedule in Attachment A; provided that, following the receipt of the Initiation of Operation date and the final disbursement of Loan proceeds to the Borrower, a revised final Attachment A shall be prepared by the NDEE to establish the final debt service schedule based upon the parameters described in the projected Attachment A. Such revised final Attachment A thereafter shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace the projected Attachment A.

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

(b) **Optional Prepayment of the Loan.** The Borrower may not prepay the Loan, together with any accrued interest in whole or in part within 5 years of the Loan Date if the Borrower has received Loan Forgiveness as part of this Loan Agreement. After 5 years, the Borrower may make a partial prepayment of the Loan Amount only if the prepayment amount is greater than the lesser of 10% of the outstanding Loan Amount or \$50,000. The NDEE shall prepare a new Loan Repayment Schedule to revise Attachment A following receipt of any partial prepayment of the Loan, and such revised Attachment A thereafter shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace Attachment A.

(c) **Mandatory Prepayment of Loan.** If the Borrower receives a grant from any source for any portion of the Project Costs for which a portion of the Loan Amount has been disbursed and is outstanding under this Loan Agreement, such portion of the Loan Amount shall become immediately due and payable.

(d) **Delinquent Payment Penalty and Penalty Interest.** Payments shall be considered delinquent if not received within 15 days of the due date and for any such delinquent payment, the Borrower agrees to pay a 5% administrative penalty of said delinquent payment. In addition, the Borrower agrees to pay penalty interest on any such delinquent payment at the rate of 1% per month of the amount of such delinquent payment from and after the due date until it is paid.

**Section 2.06. Administrative Fee.** The Borrower shall pay to the NDEE, or at the direction of the NDEE, to NIFA or the Trustee, an administrative fee of 0.5% per annum to be paid in installments on June 15 and December 15. The Administrative fee is waived for the first year after the date the loan agreement was signed. After the first year, the loan amount outstanding accumulated during the first year, begins to accrue. Any disbursements after the first year, begins to accrue the administrative fee from the date of the disbursement. After receipt of Initiation of Operation date and the final disbursement, a revised final Attachment A shall be prepared by the NDEE to establish the debt service schedule pursuant to Section 2.05. Such revised final Attachment A thereafter shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace the projected Attachment A.

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

- (a) December 2019, Loan date
- (b) March 2020, Construction start
- (c) October 2020, Initiation of Operation
- (d) November 2020, Substantial completion of construction

**Section 2.08. Disadvantaged Business Enterprises.** The Borrower agrees that 10% of the Loan Amount shall be the objective for proposed Disadvantaged Business Enterprises (Small Business Enterprise/Minority Business Enterprise/Women's Business Enterprise/Small Business Rural Area), including Historically Black Colleges and Universities ("DBE/HBCU") subagreement work under this Loan Agreement. The Borrower shall take affirmative steps to assure that small, minority and women's businesses pursuant to 40 C.F.R. 31.36(e) and small businesses in rural areas pursuant to 13 C.F.R. 121.2 are used when possible as sources of supplies, construction and services. Affirmative steps shall include the following:

- (a) Placing disadvantaged business enterprises, including minority, women's, small businesses and small businesses in a rural area and historically black colleges and universities on solicitation lists;
- (b) Assuring that disadvantaged business enterprises and historically black colleges and universities are solicited whenever they are potential sources;
- (c) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by disadvantaged business enterprises;
- (d) Establishing delivery schedules, where the requirement permits, which encourage participation by disadvantaged business enterprises;
- (e) Using the services and assistance of the Small Business Administration and Minority Business Development Agency of the United States Department of Commerce; and
- (f) Requiring the prime contractor to take the affirmative steps listed above.

In addition, the Borrower agrees to submit to the NDEE a completed form 5700-52A within 15 days after the end of each federal fiscal quarter during which the Borrower or its contractors award any subagreements to a disadvantaged business enterprise for building and building-related services and supplies.

**Section 2.09. Combined Utility User Charge.** The Borrower agrees to obtain approval from the NDEE of its Combined Utility User Charge, and to adopt and implement any necessary changes before the Project is placed in operation. The Borrower agrees that it shall not modify or amend, or make additions to or deletions from its Combined Utility and without the consent of the NDEE during the term of the Loan Agreement; provided, however, that the following changes may be made without the consent of the NDEE: (a) any increase in rates and charges necessary or deemed necessary by the governing body of the Borrower in order to comply with the provisions of (i) this Loan Agreement, (ii) the Ordinance or (iii) any ordinance or any other agreement pursuant to which any revenue bonds or other revenue obligations have been issued and for which the revenues of the Combined Utility have been pledged or (b) any increase deemed necessary by the governing body of the Borrower in order to permit the issuance of or provide for the payment of additional revenue bonds or other additional revenue obligations.

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

- (a) **Engineering Services.** The Borrower shall provide and maintain competent and adequate engineering supervision and resident inspection during construction.

- (b) **Construction Contract Award.** The Borrower shall obtain the NDEE concurrence and authorization prior to award of the construction contract.
- (c) **Initiation of Operation.** The NDHHS-DPH shall provide written notification to the NDEE of the date of Initiation of Operation of the Project. On failure of the NDHHS-DPH to set an acceptable Initiation of Operation date the NDEE will look at the construction record or placement into service date and set the Initiation of Operation date.
- (d) **Construction Completion.** The Borrower shall provide written notification to the NDEE of the construction completion date of the Project.
- (e) **Capacity Development.** The Borrower agrees to maintain a system of records for annual review and reporting of technical, managerial, and financial capacity of the Public Water System to demonstrate continued compliance with the requirements of the Nebraska Safe Drinking Water Act as provided under Title 179 NAC2 and the requirements of an operating permit, as issued by the Nebraska Department of Health and Human Services Regulation and Licensure effective October 1, 1999 for new community water supply systems, and October 1, 2000 for existing community water supply systems.
- (f) **Contractor's Security.** The Borrower agrees to require any contractor of the Project to post separate performance and payment bonds or other security approved by the NDEE in the amount of the bid.
- (g) **Certified Operator.** The Borrower agrees to provide a certified operator pursuant to Title 179 NAC2 Regulations Governing Public Water Systems.
- (h) **Site Title and Easements.** The Borrower must certify that site title, including all easements and rights-of-way necessary to allow construction of the Project, has been obtained prior to award of the construction contract (i.e., all real property has been acquired, bona fide options have been taken or formal condemnation proceedings have been initiated for necessary real property).
- (i) **Contractor's Payments.** The Borrower agrees to make prompt payment to its contractor(s) of sums due for construction and to retain only such amounts as may be justified by specific circumstances and provisions of the construction contract.
- (j) **Bid Solicitation.** The Borrower agrees that all bid solicitations will include the following statement:
- The prospective participants must certify by submittal of Form 5700-49 "Certification Regarding Debarment, Suspension and Other Responsibility Matters" that, to the best of its knowledge and belief, it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency. Recipients may access suspension and debarment information at the System for Award Management (SAM). This system allows recipients to perform searches determining whether an entity or individual is excluded from receiving Federal assistance.
- (k) **Debarment or Suspension.** The Borrower acknowledges that doing business with any party appearing in the "List of Parties Excluded from Federal Procurement or Non Procurement Programs" may result in disallowance of federal funds under this Loan Agreement and may also result in suspension or debarment under 40 C.F.R. Part 32.
- (l) **Other Federal Requirements.** The Borrower agrees to comply with other applicable Federal Requirements in Attachment D hereto.
- (m) **Project Sign.** The Borrower agrees to display the project sign if provided by the NDEE. The sign will remain the property of the NDEE and will be retrieved soon after project completion. The Borrower will remove the sign for the NDEE when requested.

(n) **Employment under Public Contracts, LB 403.** The Borrower agrees to comply with the provisions of LB403, approved by the Governor April 8, 2009. The following language is required and will be included in all contracts made with contractors and is a pass through requirement for his or her subcontractors.

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

(o) **Prevailing Wage.** All laborers and mechanics employed by contractors and sub-contractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Public Law 111-88 shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. With respect to the labor standards specified in this section, the Secretary of Labor shall have the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267; 5 U.S.C.App.) and section 3145 of title 40, United States Code.

The Borrower is responsible to insure compliance with the prevailing wage requirements and will include the following information in the contract documents:

Contractors and subcontractors on USEPA federally assisted construction projects are required to pay their laborers and mechanics not less than those established by the U.S. Department of Labor. A current wage decision containing the appropriate building and/or heavy type rates shall be included in the specifications. In addition, labor standard provisions, Davis Bacon and Related Acts, for federally assisted contracts shall be placed in the federal assurances of project specifications.

If an area wide decision or classification does not exist for the type of work to be performed, building or heavy, a decision or request for authorization of additional classification and rate must be requested from the Labor Department using the Standard Form 1444, Request for Authorization of Additional Classification and Rate available on the web at: [www.gsa.gov/portal/forms/download/115906](http://www.gsa.gov/portal/forms/download/115906). These types of decisions or classifications are project specific, i.e. they are applicable only to the project for which they are requested and may not be used on any other project. Project decisions generally have an expiration date of 180 days after the date of issuance. Modifications or reissued decisions are applicable to a project if received by the NDEE not less than 10 days prior to bid opening. Modifications to classification and wage rates after bid opening shall be paid to all workers performing work in the new or modified classification from the first day on which work is performed in the additional classification as approved by the Administrator of the Wage and Hour Division, Employment Standards Administration, US Department of Labor.

Weekly Payrolls shall be submitted by the contractor to the Borrower or the Borrower's representative utilizing the Department of Labor Form WH-347. A webform which can be completed on-line is found at [www.dol.gov/whd/forms/wh347.pdf](http://www.dol.gov/whd/forms/wh347.pdf). Instructions are also found on-line. The Borrower may also be required to submit copies of the Weekly Payrolls to the NDEE. As to each payroll copy received, the Borrower shall provide written confirmation on a form supplied by the NDEE indicating whether or not

the project is in compliance with the requirements of 29 CFR 5.5(a)(1) based on the most recent payroll copies for the specified week. The Borrower or Borrower's representative shall periodically interview a sufficient number of the contractor's or subcontractor's employees entitled to Davis Bacon prevailing wages to verify that contractors or subcontractors are paying the appropriate wage rates.

As provided in 29 CFR 5.6(a)(6), all interviews must be conducted in confidence. The Borrower must use Standard Form 1445 or equivalent documentation to memorialize the interviews. Copies of the SF 1445 form are available at <http://www.gsa.gov>. At a minimum, the Borrower or the Borrower's representative should conduct interviews with a representative group of covered employees within two weeks of each contractor or subcontractor's submission of its initial weekly payroll data and two weeks prior to the estimated completion date for the contract or subcontract. EPA has issued a waiver from the two week interview interval requirements by a November 16, 2012, EPA Memorandum, Class Deviation – Prevailing Wage Interview Interval Requirement in Clean Water and Drinking Water State Revolving Funds (CWSRF and DWSRF) Capitalization Grants. The provision for two week interview intervals is not a regulatory or statutory requirement and has been superseded by the class deviation. The Borrower or Borrower's representative should conduct such interviews if and when the Borrower or Borrower's representative finds it necessary to ensure that contractors are complying with the prevailing wage requirements.

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

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

(q) **American Iron and Steel Products.** On October 23, 2018, the President signed the "America's Water Infrastructure Act of 2018" (AWIA), which includes several updates and revisions to the Safe Drinking Water Act (SDWA), including the Drinking Water State Revolving Fund (DWSRF) provisions. Section 2022 of AWIA amended Section 1452(a)(4)(A) of the SDWA to extend the requirement for the use of American Iron and Steel (AIS) products in projects receiving financial assistance from the DWSRF during fiscal years 2019 through 2023. Section 1452(a)(4) includes "American Iron and Steel" requirements that recipients of DWSRF assistance are to use iron and steel products that are produced in the United States for projects for the construction, alteration, maintenance, or repair of a public water system. Prior appropriation acts, starting with the Consolidated Appropriations Act of 2014 (P.L. 113-76) and continuing through FY2018, have included the AIS requirements. In addition, all guidance issued since FY 2014 will also continue to be applicable until the AIS provision is no longer required.

The term "iron and steel products" means the following products made primarily of iron or steel: lined or unlined pipes and fittings, manhole covers and other municipal castings, hydrants, tanks, flanges, pipe clamps and restraints, valves, structural steel, reinforced precast concrete, and construction materials.

Iron and steel products that are not 100% compliant with the above requirements should be identified early in the planning and design process and the appropriate justification prepared and waiver process followed to meet the requirement before the project goes to construction.

These American Iron and Steel requirements apply for the entirety of the construction activities financed by the Loan Agreement unless (a) a waiver is provided to the Assistance Recipient by EPA or (b) compliance would be inconsistent with United States obligations under international agreements. In order to receive a waiver, the Assistance Recipient must send a written request to the EPA Administrator. A decision will be made based on the following criteria:

- (1) The requirement is inconsistent with the public interest for purposes of the project for which a waiver has been requested,

(2) Iron and steel products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality, or

(3) Inclusion of iron and steel products produced in the United States will increase the overall cost of the project by more than 25 percent.

If the Administrator receives a request for a waiver, the Administrator shall make available to the public on an informal basis a copy of the request and information available to the Administrator concerning the request and shall allow for informal public input on the request for at least 15 days prior to making a finding based on the request. The Administrator shall make the request and accompanying information available by electronic means, including on the official public Internet Web site of the Environmental Protection Agency. EPA will provide additional guidance on this provision as it becomes available.

EPA has also established a list of approved national waivers for AIS required projects. These waivers may apply to DWSRF projects if they meet the required eligibilities as determined by the EPA's waiver. A listing of all approved national waivers can be found at the EPA's website:

[https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-approved-national-waivers-0.](https://www.epa.gov/cwsrf/american-iron-and-steel-requirement-approved-national-waivers-0)"

EPA has provided additional guidance on these AIS provisions which can be found on EPA's website at [http://water.epa.gov/grants\\_funding/aisrequirement.cfm](http://water.epa.gov/grants_funding/aisrequirement.cfm).

### Article III

#### REPRESENTATIONS AND COVENANTS OF BORROWER

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

**(a) Organization and Authority.**

(1) The Borrower is a city, town, village, district, association or other public body created by or pursuant to the constitution and statutes of the State of Nebraska.

(2) The Borrower has full legal right and authority and has all necessary licenses and permits required as of the date hereof (or is in the process of obtaining all necessary licenses and permits that will be required, but are not required to be in place as of the date hereof) to own, operate and maintain its Public Water System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, to undertake and complete the Project, and to carry out and consummate all transactions contemplated by the Loan.

(3) The proceedings of the Borrower's governing body conducted to approve this Loan Agreement and approve its execution, issuance and delivery on behalf of the Borrower, and authorizing the Borrower to undertake and complete the Project, have been duly and lawfully convened and conducted and the ordinance of the Borrower's governing body approving such matters has been duly and lawfully adopted.

(4) This Loan Agreement has been duly authorized, executed and delivered on behalf of the Borrower and constitutes the legal, valid and binding obligation of the Borrower enforceable in accordance with its terms, except to the extent that enforceability may be limited by laws related to bankruptcy, insolvency or other similar laws affecting creditors' rights generally and general principles of equity.

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

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

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

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

(f) **Governmental Consent.** The Borrower has obtained all permits and approvals required to date under this Loan Agreement (or is in the process of obtaining all permits and approvals that will be required, but are not required to be in place as of the date hereof) for the undertaking or completion of the Project and the financing or refinancing thereof. The Borrower has complied with or expects to comply with, all applicable provisions of law requiring any notification, with any governmental body or officer in connection with this Loan Agreement or with the undertaking or completion of the Project and the financing or refinancing thereof.

(g) **Compliance with the Law.** The Borrower:

(1) Is in compliance with all laws, ordinances, governmental rules and regulations to which it is subject, including, without limitation, any public hearing or public notice requirements or environmental review requirements contained in the Regulations, with which the failure to comply would materially adversely affect the ability of the Borrower to conduct its activities, enter into this Loan Agreement or undertake or complete the Project; and

(2) Has obtained, or expects to obtain, all licenses, permits, franchises or other governmental authorizations presently necessary for the ownership of its property which, if not obtained, would materially adversely affect the ability of the Borrower to complete the Project.

(h) **Use of Loan Proceeds.** The Borrower will apply the proceeds of the Loan as described in Article II:

(1) To finance or refinance a portion of the Project Costs and

(2) Where applicable, to reimburse the Borrower for a portion of the Project Costs, which portion was paid or incurred in anticipation of reimbursement by the NDEE and is eligible for such reimbursement pursuant to the Regulations. All of such costs constitute Project Costs for which the NDEE is authorized to make Loans to the Borrower pursuant to the Act and the Regulations.

(i) **Project Costs.** The Borrower certifies that the Project Costs, as listed in Attachment B, are reasonable and accurate estimations and, upon direction of the NDEE, will supply the same with a certificate from its engineer stating that such costs are reasonable and accurate estimations, taking into account investment income, if any, to be realized during the course of construction of the Project and other money that would, absent the Loan, have been used to pay the Project Costs.

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

(a) **Dedicated Source of Revenue for Repayment of the Loan.** The Borrower hereby pledges the Combined Utility User Charge as the dedicated source of revenue for the repayment of the Loan. The pledge herein provided for is made in accordance with and under the terms of Ordinance No. XXX and is secured on a parity with the pledge made under the ordinances described below in this Subsection 3.02(a). The Borrower shall fix, establish, maintain and collect such rates, fees, and charges for the use and services furnished by or through the Borrower's Combined Utility including all improvements and additions hereafter constructed or acquired by the Borrower, as will provide revenues sufficient to (i) pay the cost of the operation and maintenance, and replacement of the Combined Utility, (ii) pay at least 110% of the principal of and interest on the Loan as and when the same become due, and (iii) pay all other amounts due at any time under this Loan Agreement, provided, however, the lien of the NDEE on the revenues of the Borrower's Combined Utility, shall be on a parity with the lien on such revenues of the Borrower's "Outstanding Bonds" as defined and described in the Ordinance and any additional Combined Utility revenue bonds or other revenue bonds hereafter issued on parity with the Loan and the Outstanding Bonds. The borrower hereby expressly reserves the right to issue revenue bonds on parity with the lien described in this Loan Agreement and the Outstanding Bonds, provided the Borrower complies with the covenants contained in this Subsection 3.02(a). These revenues shall be collected and maintained in separate accounts or ledgers for the operation and maintenance costs and for principal and interest payments on the Loan and the Outstanding Bonds, as described in the Ordinance. The funds in such accounts or ledgers shall be restricted for their intended use, and the loan obligation reported on financial statements. The Borrower agrees to develop Combined Utility User Charge based on actual or estimated use of Combined Utility services, providing that each user or user class pay its proportionate share of operation and maintenance (including replacement) costs within the Borrower's service area, based on each users demand or potential demand for service and to conduct at least a biennial review of adequacy of the user charge rates. The Borrower agrees the initial financial analysis performed by the NDEE in Attachment C is a reasonable estimate of the Project Costs, of the financial situation of the Borrower in relation to this Project, and of the user charges necessary at the time of initiation of operation of the Project. The NDEE may review this information annually to insure the Borrower's compliance with the Loan conditions and update Attachment C to reflect any changes.

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

- (1) To comply with all applicable State and federal laws, rules and regulations in the performance of this Loan Agreement (including, but not limited to the federal crosscutting issues listed in Appendix A of the EPA's final Drinking Water State Revolving Fund Program Guidelines and set forth on Attachment D hereto and the NDEE Regulations); and
- (2) To cooperate with the NDEE in the observance and performance of the respective duties, covenants, obligations and agreements of the Borrower and the NDEE under this Loan Agreement.

(c) **Completion of Project and Provision of Moneys Therefor.** The Borrower covenants and agrees:

- (1) To exercise its best efforts in accordance with prudent public water supply utility practice to complete the Project and to so accomplish such completion on or before the estimated Project completion date set forth in Article II hereto; and
- (2) To provide from its own financial resources all moneys, in excess of the total amount of proceeds it receives pursuant to this Loan Agreement, required to complete the Project.

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

- (1) Counterparts of this Loan Agreement (as previously executed by parties hereto);
- (2) Copies of the ordinances and/or resolutions of the governing body of the Borrower authorizing the execution and delivery of this Loan Agreement certified by an Authorized Representative;
- (3) An Opinion of Borrower's Counsel substantially in the form of Attachment E hereto;
- (4) An executed Note (or other evidence of indebtedness) evidencing the Borrower's obligations under this Loan Agreement in the form of Attachment F;
- (5) An executed certificate of the Borrower in the form of Attachment G hereto; and
- (6) Such other certificates, documents, opinions and information as the NDEE may require.

(e) **Operation and Maintenance of Public Water System.** The Borrower covenants and agrees that it shall, in accordance with Section 8 of Title 179 NAC 22—Operation and Maintenance of Community and Non-Transient Non-Community Public Water Systems:

- (1) At all times operate the properties of its Public Water System in an efficient manner; and
- (2) Maintain its Public Water System, making all necessary and proper repairs, renewals, replacements, additions, betterments and improvements necessary to maintain its system in good repair, working order and operating condition.

(f) **Disposition of Public Water System.** The Borrower covenants that it intends to own and operate the Project at all times during the term of the Loan. The Borrower does not know of any reason why the Project will not be so used in the absence of:

- (1) Supervening circumstances not anticipated by the Borrower at the time of the Loan;
- (2) Adverse circumstances beyond the control of the Borrower or;
- (3) Obsolescence of such insubstantial parts or portions of the Project as may occur as a result of normal use thereof.

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

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

(g) **Records and Accounts.** The Borrower shall maintain accurate records and accounts in accordance with generally accepted accounting principles, including principles relating to the reporting of infrastructure assets for its Combined Utility (the "System Records"), which shall be separate and distinct from its other records and accounts (the "General Account"). The System Records and General Accounts shall be made available for inspection upon request by the NDEE at any reasonable time. The Borrower shall, upon written request by the NDEE during the term of the Loan, engage an independent auditor to conduct an audit of the project's financial records in accordance with generally accepted government auditing standards. The Borrower shall provide the NDEE a copy of the audit report, provided such audit shall not be due to the NDEE sooner than 210 days following the close of the fiscal year, or years, identified in the request for audit. In the event that during the period in which the Project financed by this Loan Agreement is under construction, and the Borrower expends, for any purpose, total federal funds in excess of seven hundred fifty thousand dollars (\$750,000) during the Borrower's fiscal year, then the Borrower shall, irrespective of any request from the NDEE, provide the NDEE a copy of the Single Audit made on the Borrower's General Accounts performed by an independent auditor required in such cases by 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. In the sole discretion of the NDEE, any requirement herein to perform and/or provide an audit at the request of the NDEE may be waived by the NDEE on the basis of the Borrower's receipt of an audit waiver received from some other government agency and accurately acknowledging the Borrower's obligation to the NDEE under this Loan or for any other reason acceptable to the NDEE.

(h) **Inspections; Information.** The Borrower shall permit the EPA, the NDEE, and any party designated by the NDEE to examine, visit, and inspect, at any and all reasonable times, the property, if any, constituting the Project, and to inspect and make copies of any accounts, books, and records, including (without limitation) its records regarding receipts, disbursements, contracts, investments, and any other matters relating thereto and to its financial standing, and shall supply such reports and information as the EPA and the NDEE may reasonably require in connection therewith.

(i) **Financial Information.** The Borrower specifically agrees to provide to the NDEE a reasonable number of copies of such financial information and operating data of the Borrower and the Public Water System and the prompt notification of the occurrence of certain material events, to the extent necessary for the NDEE to comply with its continuing disclosure obligations set forth in the SEC Rule. Such financial information shall be prepared in accordance with GAAP. Such financial information and operating data, if requested, shall be supplied within 210 days after the end of its fiscal year. If audited financial information will be prepared, but is not available within 210 days of the end of the appropriate Borrower's fiscal year, unaudited financial information shall be provided to the NDEE pending receipt of audited financial information. For purposes of this paragraph, "material event" shall mean:

- (1) Principal and interest payment delinquencies on any Indebtedness;
- (2) Non-payment-related defaults in agreements authorizing any Indebtedness;
- (3) Rating changes on any Indebtedness;
- (4) Adverse tax opinions or events affecting the tax-exempt status of any Indebtedness; or
- (5) Unscheduled draws on debt service reserves or credit enhancements on any Indebtedness reflecting financial difficulties.

(j) **Insurance.** The Borrower will carry and maintain such reasonable amount of all risk insurance on all properties and all operations of the Public Water System as would be carried by similar sized municipal operators of Public Water System, insofar as the properties are of an insurable nature. The Borrower also will carry general liability insurance in amounts not less than the maximum liability of a governmental entity for claims arising out of a single occurrence, as provided by the Nebraska Political Subdivisions Tort Claims Act, Neb. Rev. Stat. §§13-901 to 13-926, or other similar future law.

(k) **Continuing Representations.** The representations of the Borrower contained herein shall be true at the time of the execution of this Loan Agreement and at all times during the term of this Loan Agreement.

(l) **Notice of Material Adverse Change.** The Borrower shall promptly notify the NDEE of any material adverse change in the activities, prospects or condition (financial or otherwise) of the Borrower's Public Water System, in accordance with the provisions of subsection 3.02(g) and (i) hereof, or in the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(m) **Additional Covenants and Requirements.** If necessary in connection with the making of the Loan, additional covenants and requirements are listed on Attachment H hereto. The Borrower agrees to observe and comply with each such additional covenant and requirement, if any.

#### **Article IV**

##### **ASSIGNMENT**

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

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

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

#### **Article V**

##### **EVENTS OF DEFAULT AND REMEDIES**

**Section 5.01. Notice of Default.** If an Event of Default shall occur, the nondefaulting party shall give the party in default and NIFA prompt telephonic notice of the occurrence of such Event of Default, provided

the nondefaulting party has knowledge of such Event of Default. Such telephonic notice shall be immediately followed by written notice of such Event of Default given in the manner set forth in Section 6.03 hereof.

**Section 5.02. Remedies on Default.**

(a) Whenever an Event of Default shall have occurred and be continuing, the NDEE or the Borrower shall have the right to take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and to become due or to enforce the performance and observance of any obligation or agreement of the NDEE or the Borrower (including, without limitation, withholding remaining Loan disbursements, cancellation of this Loan Agreement and acceleration of the remaining scheduled principal payments set forth on Attachment A, or such other remedies provided to the NDEE in the Act and the Regulations).

(b) If the Borrower fails to make any payment of principal and interest, late fee, and penalty interest imposed pursuant to this Loan within 60 days of the due dates specified in Section 2.05, the payment shall be deducted from the amount of aid to municipalities to which the Borrower is entitled under Neb. Rev. Stat. §72-1503. Such amount shall be paid directly to the Loan Fund.

**Section 5.03. Expenses.**

(a) Upon the occurrence of an Event of Default on the part of the Borrower, and to the extent permitted by law, the Borrower shall, on demand, pay to the NDEE the reasonable fees and expenses incurred by the NDEE in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Borrower contained herein. Prior to incurring any such expenses, the NDEE shall provide written notice to the Borrower that it intends to incur such expenses; provided, however, a failure by the NDEE to give such notice shall not affect the NDEE's right to receive payment for such expenses. Upon request by the Borrower, the NDEE shall provide copies of statements evidencing the fees and expenses for which the NDEE is requesting payment.

(b) Upon the occurrence of an Event of Default on the part of the NDEE, and to the extent permitted by law and availability of appropriated funds by the Nebraska Legislature, the NDEE shall, on demand, pay to the Borrower the reasonable fees and expenses incurred by the Borrower in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the NDEE contained herein. Prior to incurring any such expenses, the Borrower shall provide written notice to the NDEE that it intends to incur such expenses; provided, however, a failure by the Borrower to give such notice shall not affect the Borrower's right to receive payment for such expenses. Upon request by the NDEE, the Borrower shall provide copies of statements evidencing the fees and expenses for which the Borrower is requesting payment.

**Section 5.04. Application of Moneys.** Any moneys collected by the NDEE pursuant to Section 5.02 or 5.03 hereof shall be applied;

- (a) First, to pay interest on the Loan as the same becomes due and payable;
- (b) Second, to pay principal due and payable on the Loan;
- (c) Third, to pay expenses owed by the Borrower pursuant to Section 5.03 hereof; and
- (d) Fourth, to pay any other amounts due and payable hereunder as such amounts become due and payable. To the extent that the NDEE's right to receive Loan Repayments is on a parity of lien basis with the lien of Existing Revenue Obligations or Additional Revenue Obligations on the Borrower's System Revenues, such moneys shall be applied pro rata to all such obligations.

**Section 5.05. No Remedy Exclusive; Waiver; Notice.** No remedy herein conferred upon or reserved to the parties hereto is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. The parties hereto, in good faith, shall exercise such remedies with due diligence in a timely

manner, however, no delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the parties hereto to exercise any remedy reserved to them in this Article, it shall not be necessary to give any notice, other than such notice as may be required in this Article V.

**Section 5.06. Retention of Rights.** Notwithstanding any assignment or transfer of this Loan Agreement pursuant to the provisions hereof, or anything else to the contrary contained herein, the parties hereto shall have the right upon the occurrence of an Event of Default to take any action, including (without limitation) bringing an action against the defaulting party at law or in equity, as such party may, in its discretion, deem necessary to enforce the obligations of the defaulting party pursuant to this Loan Agreement.

## Article VI

### MISCELLANEOUS

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

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

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

If to Borrower:	City of Wayne 306 Pearl Street P.O. Box 8 Wayne, NE 68787-0008
If to the NDEE:	Department of Environment and Energy Post Office Box 98922 Lincoln, NE 68509-8922

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

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

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

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

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

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

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

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

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

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

CITY OF WAYNE, NEBRASKA,

NEBRASKA DEPARTMENT OF ENVIRONMENT  
AND ENERGY

By \_\_\_\_\_

By \_\_\_\_\_

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

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

Date \_\_\_\_\_

Date \_\_\_\_\_

**INDEX OF ATTACHMENTS**

Exhibit 1 - Project Description

Attachment A - Loan Repayment Schedule

Attachment B - Project Costs and Projected Outlay Schedule

Attachment C - Financial Analysis

Attachment D - List of Federal Laws and Authorities

Attachment E - Borrower's Counsel's Opinion

Attachment F - Promissory Note

Attachment G - Certificate

Attachment H- Other Documents

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**ATTACHMENT A**  
**LOAN REPAYMENT SCHEDULE**

Interest and Administrative fee accruing before June 15, 2021, which is not reflected on the following amortization schedule, shall be billed and paid in accordance with the NDEE's procedures. Interest and the Administrative fee shall accrue at the applicable rate (set forth in Section 2.03 and 2.06 of the Loan Agreement) as to the amount drawn from the date of each disbursement. Payments are due on June 15 and December 15 of each year, with an estimated commencement of June 15, 2020. Amounts due will be invoiced on or about May 15 and November 15 of each year for each six-month payment period ending on the set interest payment date. Interest and Administrative fee accruing on principal amounts drawn after the invoicing date are to be included with the next invoice. Following the receipt of Initiation of Operation date and the final disbursement of Loan proceeds to the Borrower, a revised final Attachment A shall be prepared by the NDEE to establish the final debt service schedule based upon the following parameters set forth below. Such revised final Attachment A thereafter shall be deemed to be incorporated herein by reference and made a part hereof and shall supersede and replace the projected Attachment A.

**Commented [DJR1]:** This date should be the same as first full principal repayment date (the date established by either one year after the IOO or three years after loan signing, whichever occurs first).

**Commented [DJR2]:** This date should be the anticipated general repayment (construction payment) and is usually the next pay period after signing of the loan.

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

- (1) Final principal amount of Loan;
- (2) Amount of Loan Forgiveness, if any;
- (3) Interest rate as set forth in Section 2.03;
- (4) Administrative fee rate as set forth in Section 2.06;
- (5) Installments of principal and interest on each June 15 and December 15 payment date, (a) beginning on the latest such payment date that is within one year after the Initiation of Operation date but no later than three years after the date of the Loan Agreement, whichever occurs first and (b) ending on the latest such payment date that is less than 20 years after the Initiation of Operation date; and
- (6) Amortization of principal to achieve level payments of principal and interest (not taking into account the administrative fee payment pursuant to Section 2.06).

ATTACHMENT A  
TO THE LOAN CONTRACT BETWEEN NDEE AND  
THE COMMUNITY OF Wayne  
PROJECT NUMBER 643  
LOAN AMORTIZATION SCHEDULE (PROJECTED)

TOTAL PAYMENT: \$ 3,129,082.21  
ANNUAL PAYMENT: \$ 162,273.21  
ANNUAL USER RATE: 10% debt service coverage  
USER FEE INCREASE: 178,500.53  
EXISTING RATE (O&M): 78.46  
USER FEE INCREASE: 6.54  
EXISTING RATE (O&M): 20.00  
NEW USER RATE: 26.54  
avg additional usage charge  
and less increase

TOTAL PROJECT COST \$ 3,030,000.00  
15% LOAN FORGIVENESS \$ 454,500.00  
PRINCIPAL \$ 2,575,500.00  
INTEREST RATE 1.50

DUE DATE OF PAYMENT	TOTAL PAYMENT	PRINCIPAL PAYMENT	INTEREST PAYMENT	LOAN PAYMENT	LOAN PAYMENT	PRINCIPAL PAYMENT	INTEREST PAYMENT	PRINCIPAL PAYMENT	BEGINNING BALANCE	PRINCIPAL PAYMENT	ENDING BALANCE
15-Dec-2022	81,205.92	6,338.75	19,316.25	74,767.17	74,767.17	55,450.92	19,316.25	55,450.92	2,575,500.00	55,450.92	2,520,049.08
15-Jun-2023	81,067.29	6,300.12	18,900.37	74,767.17	74,767.17	55,666.80	18,900.37	55,666.80	2,464,182.28	55,666.80	2,408,515.48
15-Dec-2023	80,927.63	6,160.46	18,481.37	74,767.17	74,767.17	56,285.80	18,481.37	56,285.80	2,407,896.48	56,285.80	2,351,610.68
15-Jun-2024	80,786.91	6,019.74	18,059.22	74,767.17	74,767.17	57,077.95	18,059.22	57,077.95	2,351,188.53	57,077.95	2,294,110.58
15-Dec-2024	80,645.14	5,877.97	17,633.91	74,767.17	74,767.17	57,933.26	17,633.91	57,933.26	2,293,493.51	57,933.26	2,236,560.25
15-Jun-2025	80,502.31	5,735.14	17,205.41	74,767.17	74,767.17	58,866.63	17,205.41	58,866.63	2,235,627.88	58,866.63	2,178,761.25
15-Dec-2025	80,358.40	5,591.23	16,773.70	74,767.17	74,767.17	59,886.63	16,773.70	59,886.63	2,176,861.25	59,886.63	2,120,974.62
15-Jun-2026	80,213.42	5,446.25	16,338.75	74,767.17	74,767.17	60,998.13	16,338.75	60,998.13	2,120,061.25	60,998.13	2,064,063.12
15-Dec-2026	80,067.35	5,300.18	15,900.54	74,767.17	74,767.17	62,201.09	15,900.54	62,201.09	2,063,161.25	62,201.09	2,001,960.16
15-Jun-2027	79,920.18	5,153.01	15,459.04	74,767.17	74,767.17	63,502.94	15,459.04	63,502.94	2,000,261.25	63,502.94	1,942,758.31
15-Dec-2027	79,771.91	5,004.74	15,014.23	74,767.17	74,767.17	64,909.41	15,014.23	64,909.41	1,938,251.25	64,909.41	1,881,341.84
15-Jun-2028	79,622.53	4,855.36	14,566.08	74,767.17	74,767.17	66,422.94	14,566.08	66,422.94	1,881,442.92	66,422.94	1,821,020.23
15-Dec-2028	79,472.03	4,704.86	14,114.57	74,767.17	74,767.17	68,044.00	14,114.57	68,044.00	1,821,290.23	68,044.00	1,760,246.23
15-Jun-2029	79,320.40	4,553.23	13,659.68	74,767.17	74,767.17	69,775.94	13,659.68	69,775.94	1,760,182.74	69,775.94	1,698,406.80
15-Dec-2029	79,167.63	4,400.46	13,201.37	74,767.17	74,767.17	71,620.27	13,201.37	71,620.27	1,698,616.94	71,620.27	1,636,996.67
15-Jun-2030	79,013.71	4,246.54	12,738.63	74,767.17	74,767.17	73,580.54	12,738.63	73,580.54	1,636,328.13	73,580.54	1,576,747.59
15-Dec-2030	78,858.64	4,091.47	12,274.42	74,767.17	74,767.17	75,656.30	12,274.42	75,656.30	1,574,073.83	75,656.30	1,517,417.53
15-Jun-2031	78,702.41	3,935.24	11,805.72	74,767.17	74,767.17	77,849.15	11,805.72	77,849.15	1,511,135.20	77,849.15	1,459,286.05
15-Dec-2031	78,545.01	3,777.84	11,333.51	74,767.17	74,767.17	80,161.45	11,333.51	80,161.45	1,447,701.54	80,161.45	1,393,540.09
15-Jun-2032	78,386.42	3,619.25	10,857.78	74,767.17	74,767.17	82,603.66	10,857.78	82,603.66	1,383,792.13	82,603.66	1,329,188.47
15-Dec-2032	78,226.65	3,459.48	10,378.44	74,767.17	74,767.17	85,186.73	10,378.44	85,186.73	1,319,403.40	85,186.73	1,267,216.67
15-Jun-2033	78,065.68	3,298.51	9,895.53	74,767.17	74,767.17	87,915.64	9,895.53	87,915.64	1,254,531.76	87,915.64	1,207,616.12
15-Dec-2033	77,903.50	3,136.33	9,408.99	74,767.17	74,767.17	90,696.37	9,408.99	90,696.37	1,189,173.58	90,696.37	1,149,477.21
15-Jun-2034	77,740.10	2,972.93	8,924.94	74,767.17	74,767.17	93,635.80	8,924.94	93,635.80	1,123,325.21	93,635.80	1,093,689.41
15-Dec-2034	77,575.48	2,808.31	8,442.37	74,767.17	74,767.17	96,739.15	8,442.37	96,739.15	1,056,692.68	96,739.15	1,040,953.53
15-Jun-2035	77,409.63	2,642.46	7,967.37	74,767.17	74,767.17	100,000.00	7,967.37	100,000.00	990,143.18	100,000.00	990,143.18
15-Dec-2035	77,242.18	2,475.96	7,493.02	74,767.17	74,767.17	103,431.15	7,493.02	103,431.15	922,802.08	103,431.15	899,370.93
15-Jun-2036	77,074.18	2,307.01	7,021.17	74,767.17	74,767.17	107,039.66	7,021.17	107,039.66	854,955.93	107,039.66	797,916.27
15-Dec-2036	76,904.56	2,137.99	6,555.00	74,767.17	74,767.17	110,822.99	6,555.00	110,822.99	786,000.93	110,822.99	695,177.94
15-Jun-2037	76,733.67	1,968.60	6,093.51	74,767.17	74,767.17	114,793.66	6,093.51	114,793.66	717,753.27	114,793.66	602,959.61
15-Dec-2037	76,561.50	1,794.33	5,636.18	74,767.17	74,767.17	118,949.15	5,636.18	118,949.15	648,349.10	118,949.15	519,399.95
15-Jun-2038	76,388.04	1,620.87	5,182.62	74,767.17	74,767.17	123,290.23	5,182.62	123,290.23	578,444.55	123,290.23	446,154.32
15-Dec-2038	76,213.28	1,446.11	4,736.33	74,767.17	74,767.17	127,827.54	4,736.33	127,827.54	508,015.71	127,827.54	380,188.17
15-Jun-2039	76,037.21	1,270.04	4,295.12	74,767.17	74,767.17	132,562.23	4,295.12	132,562.23	437,058.68	132,562.23	319,496.45
15-Dec-2039	75,859.62	1,092.65	3,858.00	74,767.17	74,767.17	137,495.80	3,858.00	137,495.80	365,569.43	137,495.80	268,073.63
15-Jun-2040	75,681.09	913.52	3,426.59	74,767.17	74,767.17	142,637.94	3,426.59	142,637.94	293,544.03	142,637.94	220,906.09
15-Dec-2040	75,501.03	733.86	3,000.54	74,767.17	74,767.17	147,990.00	3,000.54	147,990.00	220,906.09	147,990.00	178,916.09
15-Jun-2041	75,319.62	552.45	2,584.58	74,767.17	74,767.17	153,562.99	2,584.58	153,562.99	147,868.61	153,562.99	147,868.61
15-Dec-2041	75,136.84	369.67	2,174.77	74,767.17	74,767.17	159,367.17	2,174.77	159,367.17	74,210.45	159,367.17	74,210.45
15-Jun-2042	74,952.96	185.53	1,770.03	74,767.03	74,767.03	165,398.55	1,770.03	165,398.55	2,575,500.00	165,398.55	2,575,500.00
TOTALS	3,129,082.21	138,395.55	2,990,686.66	2,990,686.66	2,990,686.66	2,575,500.00	415,186.66	2,575,500.00	2,575,500.00	2,575,500.00	0.00

**ATTACHMENT B**

**PROJECT COSTS**

Administrative and legal fees	\$5,000
Land and right-of-way	TBD
Relocation expenses and payments	0,000
A/E Fees	150,000
Inspection Fees	0,000
Site work, demolition and removal	0,000
Construction	2,600,000
Equipment	0,000
Miscellaneous	0,000
Contingencies	<u>275,000</u>
<b>TOTAL</b>	<b>\$3,030,000</b>

**PROJECT FUNDING SOURCES**

DWSRF Loan Amount	\$2,575,500
DWSRF Loan Forgiveness Amount	<u>454,500</u>
<b>Total DWSRF Funding</b>	<b>\$3,030,000</b>

**PROJECTED OUTLAY SCHEDULE**

March 2020	\$100,000
April 2020	900,000
May 2020	300,000
June 2020	300,000
July 2020	300,000
August 2020	300,000
September 2020	300,000
October 2020	300,000
November 2020	200,000
<b>TOTAL</b>	<b>\$3,000,000</b>

**ATTACHMENT C**  
**FINANCIAL CAPABILITY**  
**CITY OF WAYNE, NEBRASKA**  
**DWSRF Project No. D311643**

City of Wayne has requested DWSRF funding assistance of \$3,030,000 to finance a new transmission main from the City's wellfield. The project will also include other distribution system improvements of ground storage tank removal and upgrades to their existing system wells. The project will include engineering fees.

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

1. Audited Financial Statements Excerpts of the City of Wayne for the years 2016 through 2018,
2. Water/Wastewater Preapplication for Federal/State Assistance,
3. Preliminary Engineering Report prepared by JEO Consulting Group plus miscellaneous correspondence from the City of Wayne in project file.

Table 1  
City of Wayne Water and Sewer Fund Summary

Year	Revenue (includes interest income)	Expenses (excludes depreciation)	Revenue Minus Expenses
2016	\$2,179,749	\$1,267,272	\$912,477
2017	\$2,230,622	\$1,729,869	\$500,753
2018	\$2,286,557	\$1,340,209	\$946,348

Table 2  
City of Wayne Water Fund Summary

Year	Revenue (includes interest income)	Expenses (excludes depreciation)	Revenue Minus Expenses
2016	\$954,044	\$503,094	\$450,950
2017	\$948,774	\$583,430	\$365,344
2018	\$948,621	\$557,764	\$390,857

**Analysis of the Water Utility:**

The City of Wayne operates a Combined Utility consisting of the sewer utility and water utility, which generates revenue by assessing sewer user fees and water use fees on the residents and businesses in Wayne. This revenue stream goes towards paying for the operation and maintenance expenses incurred to operate the combined utility. The revenue stream is also used to pay the debt service due to outstanding as well as the proposed combined utility loans.

The water utility ran operating surpluses for the years 2016 through 2018. The number of users is estimated at 2,275 residential and commercial connections. The current household water user charge is a

metered rate of \$20.00 per month base plus \$1.75 per 1,000 gallons used. That equates to a water bill of \$34 per month, based on a common household water use of 8,000 gallons. The current revenue minus expenses (net income) is adequate to fund the debt service from the proposed project. Therefore, current water user rates are adequate and do not need to be increased. The City is eligible for a 20-year DWSRF loan at a per annum interest rate of 1.5 percent plus an annual 0.5 percent administrative fee on the outstanding principal amount. The DWSRF loan funding assistance of \$3,030,000 minus \$454,500 loan forgiveness for a principal amount of \$2,575,500 would have an annual debt service of \$162,273 plus the DWSRF contract required 10% coverage or \$16,227 for delinquency or loss of users totals \$178,500 for the first year debt service including coverage.

The City of Wayne has an outstanding DWSRF loan with an original principal balance of \$762,414.00, which is assessed an interest rate of 2.00%, plus a 1.00% annual administration fee and is due to be paid off on June 30, 2031. This loan has an annual payment of principal and interest of \$46,220. The City of Wayne has an outstanding CWSRF loan with an original principal balance of \$4,949,020.00, which is assessed at an interest rate of 2.00%, plus a 1.00% annual administration fee and is due to be paid off on June 15, 2032. This loan has an annual payment of principal and interest of \$426,378. The City of Wayne has another outstanding CWSRF loan with an original principal balance of \$1,838,650, which is assessed at an interest rate of 1.50%, plus a 1.00% annual administration fee and is due to be paid off on December 15, 2036. This loan has an annual payment of principal and interest of \$106,752.

Table 3

Proposed DWSRF Loan #D311643 of \$3,030,000 less \$454,500 or \$2,575,500 Principal

DWSRF Base Program Loan Term (years)	Interest Rate	First Year Payment	First Year Payment + 10% Coverage
20	1.5% + 0.5% admin fee on outstanding principal balance	\$162,273	\$178,500

Current water user rates are adequate and do not need to be increased. The existing monthly water rate utilizing the estimated household water use of 8,000 gallons equals \$34.00 or \$408.00 annually. This projected household water rate total is 0.96% of City of Wayne's median household income of \$42,500 and is below EPA's 2.5% upper level of water rate affordability.

## ATTACHMENT D

### LIST OF FEDERAL LAWS AND AUTHORITIES

#### ENVIRONMENTAL:

- Archeological and Historical Preservation Act of 1974, PL 93-291, 16 U.S.C. §469a-1
- Clean Air Act, PL 95-95, as amended, 42 U.S.C. 7506(c)
- Coastal Barrier Resources Act, PL 97-348, 96 Stat. 1653, 16 U.S.C. 3501 et seq.
- Coastal Zone Management Act of 1972, PL 92-583, as amended, 16 U.S.C. §1451 et seq.
- Endangered Species Act, PL 93-205, as amended, 16 U.S.C. 1531, et seq.
- Essential Fish Habitat Consultation Process Under the Magnuson-Stevens Fishery Conservation and Management Act, PL 94-265, as amended, 16 U.S.C. §1801 et seq.
- Executive Order 11988, Floodplain Management, as amended; Executive Order No. 12148, as amended
- Executive Order 11990, Protection of Wetlands, as amended; Executive Order No. 12608, as amended
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, as amended
- Farmland Protection Policy Act, PL 97-98, 7 U.S.C. §4201 et seq.
- National Environmental Policy Act, PL 91-190, 42 U.S.C. §4321 et seq.
- National Historic Preservation Act of 1966, PL 89-665, as amended, 16 U.S.C. §740 et seq.
- Safe Drinking Water Act, as amended, PL 93-523, as amended, 42 U.S.C. 300f et seq.
- U.S. Fish & Wildlife Service National Wetlands Inventory
- Wild and Scenic Rivers Act, PL 90-542, as amended, 82 Stat. 913, 16 U.S.C. §1271 et seq.

#### ECONOMIC:

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

#### SOCIAL LEGISLATION:

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

#### MISCELLANEOUS AUTHORITY:

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

\*The list of Federal Laws and Authorities is based upon the EPA's listing of "Additional information on Cross-Cutting Federal Authorities" ([http://water.epa.gov/grants\\_funding/dwsrf/xcuts.cfm](http://water.epa.gov/grants_funding/dwsrf/xcuts.cfm)) and the EPA's "Cross-Cutting Federal Authorities: A Handbook on Their Application in the Clean Water and Drinking Water State Revolving Fund Programs" (October 2013; <http://www2.epa.gov/sites/production/files/2015-08/documents/crosscutterhandbook.pdf>) as of October 12, 2015. This list is subject to change based upon the federal authorities of the EPA.

**ATTACHMENT E**

**FORM OF BORROWER'S COUNSEL OPINION**

[USE BORROWER COUNSEL'S LETTERHEAD]

[Date]

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

Nebraska Department of Environment and Energy  
Post Office Box 98922  
Lincoln, NE 68509-8922  
Attention: Water Quality Division

Ladies and Gentlemen:

We have acted as Bond Counsel in connection with the execution and delivery by the City of Wayne, in the State of Nebraska, a second-class city (the "Borrower"), of a Loan Agreement No. D311643 (the "Loan Agreement") between the Borrower and the Nebraska Department of Environment and Energy ("the NDEE") and the issuance of a promissory note (the "Note") by the Borrower to the NDEE. All terms used in this opinion letter and not defined shall have the meanings given to them in the Loan Agreement.

In this connection, we have examined the following:

- (a) Certified copies of Ordinance No. \_\_\_\_\_, passed and approved by the Mayor and City Council of the Borrower on \_\_\_\_\_, 2020, authorizing the execution and delivery of the Loan Agreement and Note by the Borrower;
- (b) An executed counterpart of the Loan Agreement;
- (c) The executed Note; and
- (d) Such other documents as [I/we] deemed relevant and necessary in rendering this opinion.

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

Based upon the foregoing we are of the opinion that:

1. The Borrower is a city of the second class duly organized and validly existing under the laws of the State of Nebraska.
2. The Borrower is a governmental unit, as such term is used in Section 141(b)(6) of the Internal Revenue Code of 1986, as amended.
3. The Borrower has the power and authority to enter into the Loan Agreement, to issue the Note, to borrow the entire principal amount provided for in Section 2.01 of the Loan Contract (the "Loan Amount") and to perform its obligations under the Loan Agreement and the Note.

4. The Loan Agreement and the Note have been duly authorized, executed and delivered by the Borrower and are, and would be if the entire Loan Amount were advanced to the Borrower pursuant to the Loan Agreement on the date of this opinion, valid and legally binding special obligations of the Borrower, payable solely from the sources provided therefor in the Loan Agreement, enforceable in accordance with their respective terms, except to the extent that the enforceability thereof may be limited by laws relating to bankruptcy, insolvency or other similar laws affecting creditors' rights generally and general principles of equity.

5. Pursuant to Neb. Rev. Stat. §§18-1803 through 18-1805, the Loan Agreement creates a valid lien on the funds pledged by the Borrower pursuant to Section 3.02 of the Loan Agreement for the security of the Loan Agreement and the Note and no other debt of the Borrower is secured by a superior lien on such funds.

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

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

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

Very truly yours,

## ATTACHMENT F

### PROMISSORY NOTE OF CITY OF WAYNE, NEBRASKA

FOR VALUE RECEIVED, the undersigned (the "Borrower") promises to pay, but solely from the sources described herein, to the order of the Nebraska Department of Environment and Energy ("the NDEE"), or its successors and assigns, the principal sum of not to exceed \$3,030,000 less \$454,500 to the extent disbursed pursuant to Section 2.01 and Section 2.04 of the Loan Agreement No. D311643 ("the Loan Agreement"), with interest on each such amount until paid, as provided in Section 2.03 of the Loan Agreement between the NDEE and the Borrower. In addition, the Borrower shall pay an Administrative Fee on the outstanding principal amount of this Note at the rate of 0.5% per annum as provided in the Loan Agreement. The said principal and interest and Administrative Fee shall be payable in semiannual installments each payable on December 15 and June 15 of each year in accordance with Section 2.05 of the Loan Agreement. Each installment shall be in the amount set forth opposite its due date in Attachment A to the Loan Agreement. The Borrower shall pay any penalty or additional interest due pursuant to Section 2.05(d) of the Loan Agreement.

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

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

All payments of principal of and interest on this Note and other payment obligations of the Borrower hereunder shall be limited obligations of the Borrower payable solely out of the ~~System Revenues~~ Combined Utility User Charge (as defined in the Loan Agreement) on a parity with the Borrower's "Outstanding Bonds" as defined and described in the Ordinance, and any additional Combined Utility revenue bonds hereafter issued on parity with the Loan and the Outstanding Bonds, and shall not be payable out of any other revenues of the Borrower. The obligations of the Borrower under this Note shall never constitute or give rise to a charge against its general credit or taxing power. This note shall not be a debt of the Borrower within the meaning of any constitutional, statutory or charter limitation upon the creation of general obligation indebtedness of the Borrower.

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

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

This Note and all instruments securing the same are to be construed according to the laws of the State of Nebraska. Signed and sealed this \_\_\_\_th day of \_\_\_\_\_, 2020.

[SEAL]

CITY OF WAYNE, NEBRASKA

Attest \_\_\_\_\_  
(Clerk)

By \_\_\_\_\_  
Title MAYOR

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

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

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

NEBRASKA INVESTMENT FINANCE AUTHORITY

By \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

Attest \_\_\_\_\_

**ATTACHMENT G**

**CERTIFICATE OF CITY OF WAYNE, NEBRASKA**

The following certifications are made in connection with the Loan Agreement No. D311643, (the "Loan Agreement") between the Nebraska Department of Environment and Energy ("the NDEE") and CITY OF WAYNE, Nebraska (the "Borrower") for the purpose of establishing compliance by the Borrower with requirements for the maintenance of the tax exemption of interest on any bonds (the "Bonds") which may be from time to time issued by the Nebraska Investment Finance Authority ("NIFA") to provide funds for deposit in the Loan Fund (as defined in the Loan Contract).

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

1. The undersigned is authorized to make the following certifications on behalf of the Borrower.

2. The Borrower represents that it reasonably expects that the design and construction of the Project, as defined in the Loan Agreement, will commence within six months from the execution of the Loan Agreement and that the design and construction of the Project will proceed with due diligence thereafter to completion.

3. The proceeds of the loan pursuant to the Loan Agreement will be used to construct a facility that will be owned and operated by the Borrower. There will be no contracts for the use of the facility other than contracts on a rate scale basis. Specifically, the Borrower represents that there will be no contracts for use of the Project that will require a non-governmental unit to make payments to the Borrower without regard to actual use of the Project.

Dated this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

CITY OF WAYNE, NEBRASKA

By \_\_\_\_\_

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

**ATTACHMENT H**  
**ADDITIONAL COVENANTS AND REQUIREMENTS**

**LOAN FORGIVENESS AWARD AND CONDITIONS**  
**FROM THE NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY**  
**TO THE CITY OF WAYNE, NEBRASKA**  
**THE NDEE PROJECT NUMBER D311643**

THIS AGREEMENT is entered into by and between the Nebraska Department of Environment and Energy (the NDEE) and the City of Wayne, Nebraska (hereinafter "Recipient").

This Loan Forgiveness is provided from grant funds awarded to the State of Nebraska by the Environmental Protection Agency for purposes of achieving compliance with provisions of the Federal Safe Drinking Water Act and furthering the activities of the Drinking Water State Revolving Loan Fund (DWSRF) Program. It is part of the financing package offered by the NDEE and is provided in conjunction with the Loan Agreement, DWSRF Project No. D311643, (hereinafter "Loan Agreement").

**PART I: LOAN FORGIVENESS AWARD**

The State of Nebraska, Department of Environment and Energy, hereby awards Loan Forgiveness in an amount not to exceed four hundred fifty-four thousand, five hundred dollars (\$454,500) to the Recipient, available subsequent to receipt of loan funds provided under the Loan Agreement for the construction of the eligible Public Water System (PWS) project described therein. The Loan Forgiveness consists of federal funds provided in accordance with the Drinking Water State Revolving Fund Program Guidelines, Rules and Regulations for the Wastewater Treatment Facilities and Drinking Water Construction Assistance Programs ("Nebraska Department of Environmental Quality, Title 131 – Rules and Regulations for Wastewater Treatment Facilities Construction Assistance Program"), and the procedures developed in the SRF SFY 2020 Intended Use Plan (IUP) to determine the appropriate percentage for Loan Forgiveness based on the Recipient's ability to pay. The Loan Forgiveness amount may be changed by the Nebraska Department of Environment and Energy if the eligible project amount is changed due to the actual construction bid price, construction change orders, or other circumstances which would affect the project costs or eligibility.

**PART II: LOAN FORGIVENESS CONDITIONS**

**1. COSTS COVERED BY LOAN FORGIVENESS**

Loan Forgiveness will constitute up to 15.00% of eligible costs incurred for planning, designing, and constructing the project described in the Loan Agreement, up to a ceiling of \$454,500. The percentage is set in accordance with Appendix F of the SRF SFY 2020 IUP, DWSRF Loan Forgiveness Allocation Determination Procedures.

**2. COSTS NOT COVERED BY LOAN FORGIVENESS**

Loan Forgiveness will not fund costs for any ineligible municipal improvements.

**3. ADMINISTERED AS DWSRF LOAN PROJECT**

This project will be administered by the NDEE as a DWSRF loan project. The Recipient will comply with all terms and conditions found in the Loan Agreement.

**4. DISBURSEMENT**

Disbursements identified for Loan Forgiveness will be for the costs described in Paragraph 1 above and made concurrently with disbursements under the Loan Agreement. Disbursement requests may be submitted as provided in the Loan Agreement for eligible costs incurred for the project. Requests must be made on the forms provided and must be accompanied by the contractor's pay estimate and other

applicable invoices. Total funds disbursed on this project will not exceed the amount of funds provided by the Loan Agreement until the NDEE approved user charge system/ rate ordinance has been enacted and implemented by the Recipient.

5. FORFEITURE AND REPAYMENT OF FUNDS

Violation of any of the provisions of this agreement or failure of the Recipient to complete and adequately maintain the project may result in the forfeiture of any funds not disbursed and recovery of any or all funds disbursed. Cancellation of the Loan Agreement, pursuant to Article V, Section 5.02(a) of the Loan Agreement, shall result in annulment of this Loan Forgiveness agreement and a demand that any disbursed funds be returned to the State of Nebraska immediately.

6. PREPAYMENT OF THE LOAN PROHIBITION

The borrower is prohibited from prepayment of the loan, together with accrued interest in whole or in part within 5 years of the loan date. Prepayment within 5 years shall result in annulment of this Loan Forgiveness Agreement and a demand that any disbursed funds be returned to the State of Nebraska immediately.

7. AMENDMENT

Changes to this agreement shall be by written amendment signed by both parties.

8. EFFECTIVE DATE

This agreement takes effect when all documents that are part of the financing package described in this agreement are signed by both parties.

9. GOVERNING LAW

This agreement shall be governed and construed in accordance with the laws of the State of Nebraska.

PART III: CERTIFICATION AND ACCEPTANCE

1. ELIGIBILITY FOR LOAN FORGIVENESS

Loan Forgiveness eligibility, as defined in Appendix F of the SRF SFY 2020 IUP, is dependent on the City's Median Household Income. The Recipient will be required to submit and receive approval from the NDEE of its user charge system/ rate ordinance and enact such approved ordinance by the date of Initiation of Operation of the project.

2. OVERPAYMENT

Acceptance of any payments constitutes an agreement by the Recipient that the amounts, if any, found by the state to be overpaid, shall be immediately refunded or credited in full to the State of Nebraska.

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

CITY OF WAYNE, NEBRASKA,

NEBRASKA DEPARTMENT OF ENVIRONMENT AND ENERGY

By \_\_\_\_\_

By \_\_\_\_\_

Title Mayor

Title Director

Date \_\_\_\_\_

Date \_\_\_\_\_



**APPLICATION AND CERTIFICATE FOR PAYMENT**  
**AIA DOCUMENT G702/CMA**

**CONSTRUCTION MANAGER-ADVISED EDITION**

TO OWNER/CLIENT: PROJECT: **Senior Center Addition**  
 City of **Wayne** 410 Pearl Street  
 308 Pearl Street Wayne, NE 68787  
 Wayne, Ne 68787  
 FROM CONTRACTOR Attn: Jill M. Brodersen, Architect  
**Sioux Contractors Inc** 106 1/2 Main Street  
 412 Pavonia Street, (P.O. Box 3037) Wayne, NE 68787  
 Sioux City, IA 51101 (51102)  
 CONTRACT FOR: **General Construction Work**

APPLICATION NO: **1** Distribution to:  
 PERIOD TO: **4/1/2020**  OWNER  
 SCI PROJECT NO: **S7020**  ARCHITECT  
 CONTRACTOR

CONTRACT DATE: **XXXX**  
 JEO PROJECT NO: 191782.00

**CONTRACTOR'S APPLICATION FOR PAYMENT**

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1. ORIGINAL CONTRACT SUM \$ 47,800.00
2. Net change by Change Orders \$ 0.00
3. CONTRACT SUM TO DATE (Line 1 ± 2) \$ 47,800.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703) \$ 21,600.00
5. RETAINAGE:
  - a. 5 % of Completed Work \$ 990.00  
 (Column D + E on G703)
  - b. 5 % of Stored Material \$ 90.00  
 (Column F on G703)  
 Total Retainage (Lines 5a + 5b or Total in Column J of G703) \$ 1,080.00
6. TOTAL EARNED LESS RETAINAGE (Line 4 less Line 5 Total) \$ 20,520.00
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate) \$ 0.00
8. CURRENT PAYMENT DUE \$ **20,520.00**
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6) \$ 27,280.00

CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner		
Total approved this Month		
TOTALS	\$0	\$0
NET CHANGES by Change Order		\$0.00

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: **Sioux Contractors Inc.**

By:  Date: 3/31/20  
 Robert V. Agency President

State of: Iowa County of: Woodbury  
 Subscribed and sworn to before me this 31-Mar-2020  
 Notary Public:  TRACY PING  
 Commission Number 721802  
 MY COMMISSION EXPIRES  
 APRIL 9, 2021

**CERTIFICATE FOR PAYMENT**

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies that to the best of her knowledge, information and belief the work has progressed as indicated by the Contractor, the quality of the work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

**AMOUNT CERTIFIED** \$ **20,520**

(Attach explanation if amount certified differs from the amount applied for. Initial all figures on this Application and on the Continuation Sheet that changed to conform to the amount certified.)

Architect: Jill M. Brodersen

By:  Date: 3.31.20

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

**Job: Senior Center Addition**  
 410 Pearl Street  
 Wayne, NE 68787

SCI Job No. S7020

Appl. No: 1  
 Appl. Date: 3/31/20  
 Period To: 4/1/20

Activity/ Work Item	Total Scheduled Value	Completed Prev. Appl.	Completed This Period	Stored Material	Total Completed & Stored	% Complt	Balance To Finish	5% Retainage
Bond & Insurance Premiums	\$900		\$900		\$900	\$1	\$0	\$45
Mobilization/Close-Out	\$600		\$300		\$300	\$1	\$300	\$15
General Conditions/O.H. & Travel	\$6,600		\$1,200		\$1,200	\$0	\$5,400	\$60
Demolition, Prep & Patch	\$3,800		\$2,900		\$2,900	\$1	\$900	\$145
Exter. Conc. Work	\$1,100				\$0	\$0	\$1,100	\$0
Conc. Fndtn, Floor & Hardener	\$4,800		\$4,100		\$4,100	\$1	\$700	\$205
Brick Veneer & Accessories	\$3,300				\$0	\$0	\$3,300	\$0
Rough Carpentry	\$6,600		\$5,700		\$5,700	\$1	\$900	\$285
Vinyl Siding & Trim	\$2,500				\$0	\$0	\$2,500	\$0
Roofing, Gutters/D.S. & Sealants	\$2,200		\$1,900		\$1,900	\$1	\$300	\$95
Finish Carpentry	\$200				\$0	\$0	\$200	\$0
Door, Frame, & Finish Hdwre	\$1,500			\$1,100	\$1,100	\$1	\$400	\$55
Gyp.Bd./Insulation & V.B.	\$2,800		\$700		\$700	\$0	\$2,100	\$35
Resilient Base	\$200				\$0	\$0	\$200	\$0
Painting	\$900				\$0	\$0	\$900	\$0
Plumbing	\$3,700		\$2,000		\$2,000	\$1	\$1,700	\$100
HVAC	\$2,600		\$300		\$300	\$0	\$2,300	\$15
Electrical	\$3,500		\$500		\$500	\$0	\$3,000	\$25
					\$0	#DIV/0!	\$0	\$0
<b>Total</b>	<b>\$47,800</b>	<b>\$0</b>	<b>\$19,800</b>	<b>\$1,800</b>	<b>\$21,600</b>		<b>\$26,200</b>	<b>\$1,080</b>