

**HIGHWAY 41 WATER UTILITY  
BYLAW - 02/2008**

**A Bylaw of the Highway 41 Water Utility (the "Utility") to provide for Bylaw No.02/2008, authorizing Water Pipeline Connection Agreements and Water Supply Agreements between the Utility and Rural Subscribers with Multiple Connections**

**WHEREAS:**

- A. The Utility has been constituted by municipal bylaw for the purposes of enabling the construction and operation of a distribution system (the "**Distribution System**") to provide potable water for public consumption, benefit and convenience.
- B. Numerous rural subscribers (the "Subscribers") own lands in the Utility's service area and desire that their lands be connected to the Distribution System and that the Utility supply water to the Subscribers.
- C. The board of the Utility has determined that it is desirable to enter into water pipeline connection agreements (the "Water Pipeline Connection Agreements (Multiple Connections)") in the form of Schedule "A" and water supply agreements ("Water Supply Agreements (Landowner-Initial Connection)") in the form of Schedule "B" with Subscribers setting forth terms and conditions governing multiple connections to the Distribution System, payment for the connections and the supply of water to the Subscribers.

NOW THEREFORE the board of the Utility enacts as follows:

**1. APPROVAL OF AGREEMENT**

The Water Pipeline Connection Agreement and the Water Pipeline Supply Agreement are hereby approved and ratified.

**2. EXECUTION OF AGREEMENTS**

The Chairman of the Utility and the Administrator are hereby authorized and empowered for and on behalf of the Utility to execute and deliver, under the corporate seal or otherwise, Water Pipeline Connection Agreements(Multiple Connections) and the Water Supply Agreements (Landowner-Initial Connections) with Subscribers.

**3. EFFECTIVE DATE**

This Bylaw becomes effective the 21<sup>st</sup> day of August, 2008.

Signed and sealed by the Highway 41 Water Utility the 21st day of August, 2008.

\_\_\_\_\_  
Chairperson

*Seal*

\_\_\_\_\_  
Administrator

Schedule "A"  
Form of Water Pipeline Connection Agreement (Multiple Connections)

**WATER PIPELINE CONNECTION AGREEMENT**  
**(Multiple Connections)**

**BETWEEN:**

**HIGHWAY 41 WATER UTILITY**  
(the "Utility")

**«Company»**  
(the "Subscriber")

**WHEREAS:**

- A. The Utility has been constituted by municipal bylaw for the purposes of enabling the construction and operation of a distribution system (the "**Distribution System**") to provide potable water for public consumption, benefit and convenience.
- B. The Subscriber owns the land (the "**Lands**") referenced in Schedule "A" and desires that the Lands be connected to the Distribution System and in particular that there be ♦ Subscriber Connections to the Distribution System.
- C. The Parties wish to set forth terms and conditions governing connection to the Distribution System, payment for the connection and the supply of water to the Subscriber.

**NOW THEREFORE** in consideration of the mutual promises given in this Agreement, the Parties agree as follows:

**A. Definitions and Interpretation**

- 1. **Definitions:** In this Agreement, the terms set forth below shall have the following meanings.
  - (a) "**Actual Connection Cost**" shall be the Estimated Connection Cost minus the Cost Adjustment;
  - (b) "**Connections**" shall mean the number of subscribers to the Utility pursuant to water pipeline connection agreements between the Utility and with landowners or lessees and the number of lots in subdivisions to be serviced by the Utility pursuant to water pipeline connection agreements between the Utility and developers of or lot owners in subdivisions. Where a subscriber has more than one connection to the Distribution System pursuant to an agreement substantially similar to this agreement, the number of connections by such a subscriber shall be counted as Connections. At the present time, it is estimated that there will be 300 Connections;
  - (c) "**Cost Adjustment**" shall mean the amount, if any, on a per Connection basis calculated in accordance with Section 22 herein;
  - (d) "**Delivery Point**" shall mean, with respect to any one of the Subscriber Connections, the delivery point determined in accordance with Section 13 of this Agreement;

- (e) **“Delivery Works”** shall mean, with respect to any one of the Subscriber Connections, the underground water supply pipeline from the Delivery Point for such Subscriber Connection to the Water Meter for such Subscriber Connection;
- (f) **“Distribution System”** means the entire water distribution system to be constructed, owned and operated by the Utility that is connected to the Sask Water Facility, including the Transmission System, but for greater certainty excluding the Delivery Works with respect to each of the Subscriber Connections, which shall be or is the property of the Subscriber;
- (g) **“Estimated Connection Cost”** shall be the costs referenced in Section 19 of this agreement;
- (h) **“Lands”** shall mean the lands referenced in Schedule “A”;
- (i) **“Party”** means any entity from time to time who is a party to this Agreement;
- (j) **“Reeve”** means the Reeve of the RM of «RM\_of» or such other person as such Reeve may designate to represent him or her;
- (k) **“Sask Water”** means the Saskatchewan Water Corporation;
- (l) **“Sask Water Facility”** shall mean the contemplated water supply facility expected to be constructed by Saskatchewan Water Corporation along Highway 41 in order to supply potable water to the Utility;
- (m) **“Subscriber Connection”** shall mean any one of the connections, as applied for by the Subscriber in Section 7 herein, from the Distribution System to the Lands such that for each Subscriber Connection there shall be a separate Delivery Point, separate Deliver Works, a separate Water Meter, and separate Subscriber’s Works;
- (n) **“Subscriber’s Works”** shall mean, with respect to a Subscriber Connection, all facilities located on the Subscriber’s side of the Water Meter for such Subscriber Connection, as defined in the Water Supply Agreement;
- (o) **“Total Net Construction Costs”** shall mean the total net construction costs certified and determined in accordance with Section 22 herein;
- (p) **“Transmission Works”** shall mean all parts, if any, of the Distribution System located on the Lands, which are intended to distribute water to more than one Subscriber;
- (q) **“Water Meter”** shall mean, with respect to a Subscriber Connection, the water meter installed or to be installed on the Subscriber’s Lands, being the connecting point between the Delivery Works for such Subscriber Connection and the Subscriber’s Works for such Subscriber Connection; and
- (r) **“Water Supply Agreement”** means the Agreement substantially in the form of Schedule “B”;

2. **Expanded Meanings:** In this Agreement and its attached schedules, unless there is something in the subject matter or context inconsistent with the same:

- (a) The singular includes the plural and the plural includes the singular;
- (b) A reference to any statute extends to and includes any amendment or re-enactment of such statute;
- (c) This Agreement (excluding the schedules), overrides the schedules; and

(d) The masculine includes the feminine.

3. **Amendment of Agreement:** There are no warranties, collateral warranties, representations or other agreements between the Parties in connection with the subject matter except as specifically set out in this Agreement. No supplement, modification, waiver or termination of this Agreement is binding unless signed in writing by the Party to be bound.

**B. Conditions Precedent**

4. This Agreement is subject to the following conditions precedent, which conditions shall be satisfied, removed or waived within a reasonable period of time (to be determined at the absolute discretion of the Utility):

(a) Sask Water entering into an agreement with the City of Saskatoon to supply water to Sask Water to be delivered through the Sask Water Facility to the Utility;

(b) The Utility entering into an agreement (the "Sask Water WSA") with Sask Water on terms and conditions satisfactory to the Utility for the construction of the Sask Water Facility;

(c) The Town of Aberdeen entering into an agreement with Sask Water on terms and conditions similar to the Sask Water WSA;

(d) The Utility entering into a contract with a contractor or contractors to construct the Distribution System and/or Delivery Works in relation to each of the Subscriber Connections on terms and conditions satisfactory to the Utility;

(e) The Utility obtaining financing on terms and conditions satisfactory to the Utility for the construction of the Distribution System by the Utility;

(f) The Utility obtaining a grant in the amount of \$1,000,000.00 from the Canada-Saskatchewan Water Supply Expansion Program (CSWSEP); and

(g) A sufficient number of persons, which number shall be to the complete satisfaction and at the sole discretion of the Utility to determine, in the Utility's service area, entering into connection agreements to become connected to the Distribution System and water supply agreements with the Utility.

5. The conditions mentioned in Section 4 above are inserted for the exclusive benefit of the Utility and may only be waived in whole or in part by the Utility at any time. The Subscriber acknowledges that the waiver by the Utility of any condition shall constitute a waiver only of such condition or such part of such condition, as the case may be, and shall not constitute a waiver of any covenant, agreement, representation or warranty made by the Subscriber. If any of the conditions contained in Section 4 hereof are not fulfilled or complied with as herein provided, the Utility, may, at its option, rescind this Agreement by notice in writing to the Subscriber and in such event the Utility shall be released from all obligations hereunder and Subscriber shall also be released from all obligations hereunder.

**C. Application for Connection**

6. The Subscriber hereby represents and warrants that the Subscriber is the legal and beneficial owner of the Lands and that there are no other persons interested in ownership or entitled to an ownership interest in the Lands save for those listed.

7. The Subscriber hereby applies to be connected to the Utility and to have ◆ Subscriber Connections, and agrees that upon execution of this Agreement by the Utility, the Subscriber shall:
  - (a) Become a subscriber of the Utility;
  - (b) Be bound by the terms of this Agreement; and
  - (c) Be bound by the Bylaw creating the Utility, the Bylaws of the Utility and any rules and regulations and resolutions of the Board of the Utility, as may be created or amended from time to time.
8. Concurrent with the execution of this Agreement by the Subscriber, the Subscriber shall for each Subscriber Connection, execute a Water Supply Agreement in the form set forth in Schedule "B", including the easement agreement appended thereto as Schedule "3", and shall be bound by the terms of that Agreement.
9. Execution of this Agreement and the Water Supply Agreement by the Utility constitutes approval of the Subscriber's application to connect to the Utility.

**D. Distribution System Standards**

10. The Utility shall construct the Distribution System to supply water at the Delivery Point in relation to a Subscriber Connection with a designed minimum consumption of 720 imperial gallons per day.
11. Notwithstanding the foregoing, it is understood and agreed that the Utility does not guarantee:
  - (a) Quantity of water;
  - (b) Quality of water;
  - (c) Pressure; or
  - (d) An uninterrupted supply of water.

and the Subscriber acknowledges that the supply of water will be subject to disruptions of service and must agree to conform to restrictions of water supply required by the operations of the Utility, imposed by the Utility, or imposed by Saskatchewan Water Corporation.

**E. Construction of Distribution System and Delivery Works**

12. Provided that the Subscriber shall be in compliance with the terms of this and any other agreement between the Subscriber and the Utility, in accordance with the terms of this Agreement, the Utility shall construct or shall construct an addition to the Distribution System, including the Delivery Works for each Subscriber Connection so as to render the Distribution System capable of delivering water to the Subscriber at the Delivery Point for each Subscriber Connection.
13. Each Delivery Point will be determined at the time the Delivery Works for the corresponding Subscriber Connection are constructed and shall be that point where the Delivery Works for such Subscriber Connection are connected to the Distribution System. This determination shall be made by agreement of the Subscriber and the Utility; however, if no such agreement shall be reached between the parties, then in such event, the determination shall be made by the Reeve of the Rural Municipality of «RM\_of», after receiving brief oral submissions from both the Subscriber and the Utility. The decision of the Reeve shall be final and shall not be open to challenge or appeal for any reason whatsoever.

14. Construction of the Distribution System shall commence by approximately July 15, 2008, and shall be complete by approximately July 31, 2009. The Utility shall have complete discretion as to the manner in which the Distribution System and the Delivery Works for all of the Subscriber Connections shall be constructed and the order in which Subscribers shall be connected to the Distribution System. It is expressly acknowledged and agreed that these dates are estimates only and are subject to change without any further notice.
15. The Utility shall not be obliged to construct any of the Delivery Works with respect to a Subscriber Connection, nor any portion of the Distribution System designed solely for the purposes of connecting to the Delivery Works with respect to such Subscriber Connection, until such time as a suitable building or other facility, at the sole discretion of the Utility shall be in existence to house the Water Meter with respect to such Subscriber Connection. Among other things, each Water Meter shall be housed in a building or other facility to ensure such Water Meter will not freeze. In the event that no such building or facility should be constructed and ready for installation on or before July 15, 2010, then the Utility, shall be relieved of any obligation to construct the Delivery Works with respect to any of the Subscriber Connections, and the construction of any such works will, although otherwise governed by the terms of this agreement, be done at the expense of the Subscriber.
16. Notwithstanding that the Utility may have constructed facilities to a Delivery Point, the Subscriber shall not be entitled to make physical connection to the Distribution System at a Delivery Point with respect to a Subscriber Connection nor to receive supply of water until such time as the Subscriber is in full compliance with the terms of this Agreement, and the terms of the Water Supply Agreement, including, but not being limited to the construction of the Subscriber's Works, as defined by that Agreement, with respect to such Subscriber Connection.
17. The Subscriber represents, warrants and covenants that it has, or shall have on or before the completion of the Distribution System, a sewage disposal system(s) on the Lands which satisfactorily comply with all applicable legislation and regulations thereunder and that it shall at all times maintain such sewage disposal system(s) so that they satisfactorily comply with all such legislation and regulations.

#### **F. Connection Costs and Payment**

18. In consideration of the capital cost associated with construction of the Distribution System, and the benefit derived by the Subscriber from that cost, the Subscriber agrees to pay the Estimated Connection Cost for each Subscriber Connection in accordance with Section 20 herein provided that upon the completion of the Distribution System, the Subscriber may be refunded a Cost Adjustment in respect of each Subscriber Connection calculated in accordance with Section 22 herein.
19. At the time of the making of this Agreement, the Estimated Connection Cost for each Subscriber Connection is \$16,500. It is understood and acknowledged that this is an estimate only; however, the Utility does not contemplate that Actual Connection Costs will exceed this sum.
20. The Subscriber shall be required to pay to the Utility the Estimated Connection Cost per Subscriber Connection (for a total amount of \$◆ (which is calculated by multiplying \$16,500.00 by the number of Subscriber Connection) (the "**Total Estimated Connection Cost**") as follows:
  - (a) The Subscriber shall pay to the Utility the sum of \$500.00 for each Subscriber Connection for a total amount of \$◆ upon signing this agreement, receipt of which is hereby acknowledged by the Utility.
  - (b) The Subscriber shall pay the remainder of the Total Estimated Construction Cost as follows (initial one of the following options):

- (i) \_\_\_\_\_, in cash in the full amount of the Total Estimated Construction Costs, forthwith upon substantial completion of the construction of the Distribution System (to be determined by the Utility at its absolute discretion); or
- (ii) \_\_\_\_\_, in cash in the amount of \$ \_\_\_\_\_ upon substantial completion of the Distribution System (to be determined at the absolute discretion of the Utility) and the balance of the Total Estimated Construction Cost by way of deferred payments, to be made in accordance with the terms and conditions set out in Schedule "C".
- (iii) \_\_\_\_\_, in the full amount of the Total Estimated Construction Cost, by way of deferred payments, to be made in accordance with the terms and conditions set out in Schedule "C"; or

In the event that the Subscriber sells, transfers, assigns, leases or otherwise disposes of the Lands, the balance of the Total Estimated Construction Cost owing by the Subscriber shall immediately become due and payable notwithstanding that the Distribution System is not substantially complete or that the Subscriber has selected either the deferred payment option in paragraph (b)(ii) or paragraph b(iii). The Subscriber hereby authorizes the RM of «RM\_of» to release to the Utility any information about the Subscriber that it has in its possession with respect to the Subscriber's sale, transfer, assignment, lease or other disposition of the Lands.

In the event that the Subscriber fails to pay the cash portion of the payment in option b (i) or b (ii) forthwith upon substantial completion of the Distribution System, the Subscriber shall pay interest at the rate of interest that the Utility must pay from time to time to the financial institution that lends the Utility money in order for the Utility to obtain long term financing as a result of subscribers' deferred payments of connection fees, plus 2% per annum.

Where the Subscriber accepts option b (i) or b (ii) above, in order to better secure the payment of the cash amount by the Subscriber upon substantial completion of the Distribution System, and any interest that may be owing thereon, the Subscriber as the owner of the estate in fee simple of the Lands hereby mortgages and charges all of its right, title and interest in the Lands including fixtures thereon, in favour of the Utility.

- 21. In the event that the Utility shall determine that it is unable to provide a connection to the Subscriber for an amount equal to or less than the Estimated Connection Cost, then in such event:
  - (a) The parties may agree in writing to amend the Estimated Connection Cost as set out in this Agreement; or
  - (b) If no such agreement is made, the Utility may refund all sums paid by the Subscriber pursuant to this Agreement, and the obligations of the Utility under this Agreement shall be at an end.
- 22. Within a reasonable period of time after the completion of the Distribution System, the Utility shall determine and certify the amount of the Cost Adjustment as follows:
  - (a) The Board of the Utility shall determine and certify the total revenues received for the construction of the Distribution System (the "**Total Construction Revenues**") and for such purpose shall include all monies collected by or payable to the Utility from rural subscribers, and developers, of and lot owners in subdivisions pursuant to water pipeline connection agreements;
  - (b) The Board of the Utility shall determine and certify the total net costs of constructing the Distribution System (the "**Total Net Construction Costs**"), which amount shall be determined in the following manner:

- (i) The Board shall determine and certify the aggregate costs (the “**Total Aggregate Costs**”) of the Utility associated with organizing the Utility and constructing the Distribution System which will include:
  - (A) The initial organizing costs of the Utility;
  - (B) All design engineering and legal costs;
  - (C) All costs associated with developing specifications for construction and tendering the construction contract;
  - (D) All costs associated with construction supervision;
  - (E) All costs associated with contracts entered into with Sask Water Corporation, PFRA, the City of Saskatoon, rural subscribers, developers and with any other person or entity;
  - (F) The costs associated with obtaining and registering easements and interests in land, and obtaining permissions from government, municipal government and individuals;
  - (G) The costs associated with obtaining and drawing upon financing for the purposes of construction and the costs associated with any capital borrowing required for the purposes of constructing the Distribution System;
  - (H) Any other costs reasonably attributed to the construction of the Distribution System;
- (ii) The Board shall determine and certify the total financial assistance (the “**Total Financial Assistance**”) in constructing the Distribution System from any external source, such as government or other grants; and
- (iii) Total Net Construction Costs shall be the Total Aggregate Costs minus Total Financial Assistance.
- (c) The Board shall determine and certify the total number of Connections.
- (d) The Cost Adjustment, if any, shall be determined in accordance with the following formula:
 
$$\text{Cost Adjustment} = (\text{Total Construction Revenues} - \text{Total Net Construction Costs}) / \text{Connections}$$

23. Provided that the Cost Adjustment is an amount greater than \$0, the Utility shall refund to the Subscriber, an amount equal to the Cost Adjustment for each Subscriber Connection. For greater certainty, in the event that the Cost Adjustment is an amount that is less than \$0, the Subscriber shall not be required to make any payment to the Utility.

#### **G. Unpaid Amounts Protected by Lien**

24. The Subscriber understands and acknowledges that any amounts payable to the Utility (including any amount that is payable to the Utility upon substantial completion of the Distribution System or any deferred payments on account of connection costs) are a lien against the Lands and any buildings located thereon, and are a charge on any goods of the Subscriber pursuant to the provisions of section 31 of *The Municipalities Act*.



25. The Subscriber further acknowledges that any such lien is in priority to the interests of any person other than the Crown, and that any sums owing may be levied and collected in any way as taxes may be recoverable, including but not being limited to legal action, proceedings against the title to the land and distress and sale of personal property.
26. The Subscriber further agrees that the Subscriber's obligations to the Utility run with the land and the Utility may, in its sole discretion, register a copy of this Agreement against the title or titles to the Lands in which case the costs of registration shall be added to and form part of the sums owing to the Utility by the Subscriber under the terms of this Agreement.

#### **H. Force Majeure and Essence of Time**

27. The Parties understand and agree that there are a number of uncertainties which arise in a project of this nature and that the Utility will be using its best efforts to perform its obligations under this Agreement. The Utility is accordingly excused from exact compliance with the terms of this agreement, where the departure is reasonable in the circumstances.
28. Without limiting the generality of the foregoing, if the Utility's ability to construct the Distribution System or otherwise comply with the terms of this Agreement shall be curtailed or limited, directly or indirectly, by act of God, act of public enemy, acts of governmental bodies (other than the Utility itself) or agencies foreign or domestic, sabotage, riot, fire, floods, typhoons, explosions or other catastrophes, epidemics or quarantine restrictions, labour unrest or labour shortages, accident, freight embargoes, delays occasioned by carriers or delays of a supplier of the Utility or because of any other causes beyond the Utility's control, in whole or in part, the failure of the Utility to comply with the terms of this Agreement, shall not constitute a breach or failure of performance under this agreement for the period of time occasioned by any such occurrence.
29. The Subscriber understands and acknowledges the scale of the undertaking of the Utility and the fact that it is being undertaken by way of volunteer work, and therefore agrees that notwithstanding the foregoing indulgences granted to the Utility, as regards the obligations of the Subscriber under this Agreement, time is of the essence.

#### **I. General**

30. **Assignment of Agreement:** The rights of the Subscriber under this Agreement are personal and may not be assigned without the permission of the Utility, which permission may be unreasonably withheld.
31. **Sale of Lands:** In the event that the Subscriber sells, transfers or conveys the Lands or any part thereof to a third party prior to the construction and installation of the Distribution System or the Delivery Works in respect of any Subscriber Connection, the Subscriber shall enter into an agreement with the third party purchaser, subject to the written approval of the Utility, providing that the third party purchaser assumes the obligations and liabilities of the Subscriber under this Agreement.
32. **Further Acts:** The Parties shall from time to time and at all times do such further acts and things and execute all such further documents and instruments as may be reasonably required in order to carry out and implement the true intent and meaning of this Agreement.
33. **Severability:** Each of the covenants, provisions, articles, sections, and other subdivisions hereof is severable from every other covenant, provision, article, section, and subdivision; and the invalidity or unenforceability of any one or more covenants, provisions, articles, sections, or subdivisions of this Agreement shall not affect the validity or enforceability of the remaining covenants, provisions, articles, sections, and subdivisions hereof.

- 34. **Enurement of Benefit:** This Agreement shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors in title and permitted assigns of the Parties.
- 35. **Joint and Several:** Where the Subscriber is more than one person, the obligations of such persons hereunder are joint and several.

**IN WITNESS WHEREOF** the Utility has affixed its seal duly attested to by its proper officers this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**HIGHWAY 41 WATER UTILITY**

(c.s.)

Per: \_\_\_\_\_

Per: \_\_\_\_\_

I / We have authority to bind the Corporation.

**IN WITNESS WHEREOF** the Subscriber has affixed its seal duly attested to by its proper officers this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**«Company»**

(c.s.)

Per: \_\_\_\_\_

Per: \_\_\_\_\_

I / We have authority to bind the Corporation.

**Schedule "A" to Water Pipeline  
Connection Agreement**

**LEGAL DESCRIPTION OF LANDS**

Address: «Address»  
Phone #: «Phone»

Legal Land Description: «Desc\_1»  
«Desc\_2»  
«Desc\_3»  
«Desc\_4»  
«Desc\_5»

Title(s) #: «Title\_1»  
«Title\_2»  
«Title\_3»  
«Title\_4»  
«Title\_5»

RM of: «RM\_of»

**Schedule "B" to Water Pipeline  
Connection Agreement**

**Form of**

**WATER SUPPLY AGREEMENT**  
***(Landowner – Initial Connection)***

BETWEEN:

**HIGHWAY 41 WATER UTILITY**  
(the "Utility")

AND:

\_\_\_\_\_  
(the "Subscriber")

**WHEREAS:**

- A. The Utility has been constituted by municipal bylaw for the purposes of constructing and operating a water pipeline northeast of Saskatoon (the "Distribution System");
- B. The Subscriber owns the land referenced in Schedule "1" and desires that there be ♦ [insert number of connections] Subscriber Connections to the Distribution System; and
- C. The Parties wish to set forth terms and conditions governing the supply of water to the Subscriber.

**NOW THEREFORE** in consideration of the mutual promises set forth in this Agreement, the Parties agree as follows:

**A. Definitions**

- 1. **Definitions:** In this Agreement, the terms set forth below shall have following meanings.
  - (a) **"Delivery Point"** shall mean that point where the Delivery Works, in relation to a Subscriber Connection, are connected to the Distribution System;
  - (b) **"Delivery Works"** shall mean the underground water supply pipeline from the Delivery Point, in relation to a Subscriber Connection, to the Water Meter for such Subscriber Connection;
  - (c) **"Distribution System"** means the entire water distribution system to be constructed, owned and operated by the Utility that is connected to the Sask Water Facility, including the Transmission System, but for greater certainty excluding the Delivery Works with respect to each of the Subscriber Connections, which shall be or is the property of the Subscriber;
  - (d) **"Lands"** shall mean the lands referenced in Schedule "1";
  - (e) **"Sask Water"** means the Saskatchewan Water Corporation;
  - (f) **"Sask Water Facility"** shall mean the contemplated water supply facility expected to be constructed by Sask Water along Highway 41 in order to supply water to the Utility;

- (g) **“Subscriber Connection”** shall mean any one of the connections from the Distribution System to the Lands such that for each Subscriber Connection there shall be a separate Delivery Point, separate Deliver Works, a separate Water Meter, and separate Subscriber’s Works;
- (h) **“Subscriber’s Works”** shall mean, with respect to a Subscriber Connection, all facilities located on the Subscriber’s side of the Water Meter for such Subscriber Connection as shown on Schedule “2” and required to take delivery of water supplied under this Agreement and to distribute it for use by the Subscriber;
- (f) **“Transmission Works”** shall mean all parts, if any, of the Distribution System located on the Lands, which are intended to distribute water to more than one Subscriber; and
- (i) **“Water Meter”** shall mean, with respect to a Subscriber Connection, the water meter installed or to be installed on the Subscriber’s Lands, being the connecting point between the Delivery Works for such Subscriber Connection and the Subscriber’s Works for such Subscriber Connection.

2. **Expanded Meanings:** In this Agreement and its attached schedules, unless there is something in the subject matter or context inconsistent with the same:

- (a) The singular includes the plural and the plural includes the singular;
- (b) A reference to any statute extends to and includes any amendment or re-enactment of such statute;
- (c) This Agreement (excluding the schedules), overrides the schedules; and
- (d) The masculine includes the feminine.

3. **Amendment of Agreement:** There are no warranties, collateral warranties, representations or other agreements between the Parties in connection with the subject matter except as specifically set out in this Agreement. No supplement, modification, waiver or termination of this Agreement is binding unless signed in writing by the Party to be bound.

## **B. Application for Commencement of Service**

4. The Subscriber hereby represents and warrants that the Subscriber is the legal and beneficial owner of the Lands and that there are no other persons interested in ownership or entitled to an ownership interest in the Lands save for those listed.

5. The Subscriber hereby applies for the supply of water by the Utility from each of the Subscriber Connections, and agrees that upon execution of this Agreement by the Utility, the Subscriber shall:

- (a) Become a subscriber of the Utility;
- (b) Be bound by the Bylaw creating the Utility, the Bylaws of the Utility and any rules and regulations and resolutions of the Board of the Utility, as may be created or amended from time to time.

6. Concurrent with the execution of this Agreement by the Subscriber, the Subscriber shall execute an Easement Agreement in the form set forth in Schedule “3”.

7. Execution of this Agreement by the Utility constitutes approval of the Subscriber's membership in the Utility.
8. No connection to the Utility may be opened and no water supplied hereunder until such time as the Utility shall have:
  - (a) Inspected the Subscriber's Works in respect of each of the Subscriber Connections and determined that they are in accordance with the requirements set forth in Schedule "2"; and
  - (b) Inspected and sealed the meter installed to measure the Subscriber's water consumption in respect of each of the Subscriber Connections, and shall have recorded an initial reading.

**C. Subscriber's Works and Delivery Works**

9. The Subscriber shall be responsible at the Subscriber's own expense to install and maintain the Subscriber's Works for each of the Subscriber Connections, including, but not being limited to water storage facilities and any pressure system necessary to make use of the water delivered under this Agreement. Any such pressure system shall be housed in a suitable (at the sole discretion of the Utility) building or other facility to prevent such pressure system from freezing.
10. The Subscriber's Works for each of the Subscriber Connections will be constructed, installed and maintained in accordance, the requirements set out in Schedule "2".
11. The Subscriber shall obtain all necessary approvals and comply with all conditions of such approvals, and all regulations that are now applicable to or may become applicable to the Subscriber's use of water, including the rules and regulations of the Utility as proclaimed and amended from time to time, and failure to do so shall entitle the Utility to immediately discontinue the supply of water hereunder.
12. It shall be a condition of service that Subscriber's Works for each of Subscriber Connection in compliance with Schedule "2" be in place at all times on the Subscriber's side of the Water Meter for such Subscriber Connection. More particularly, it is a condition that an air gap and a flow restrictor be in place at all times. Failure to maintain facilities in accordance with Schedule "2" will entitle the Utility to immediately discontinue the supply of water hereunder.
13. Any Subscriber's Works in relation to a Subscriber Connection connected to the Utility shall be wholly constructed on the Lands.
14. In the event that the Subscriber should intend to pass title or possession to a third party of any portion of the Lands, and in the further event that any portion of the Subscriber's Works in relation to a Subscriber Connection should be located on that portion of the land transferred, then, in such event, the Subscriber shall, before transferring title or possession remove all parts of the Subscriber's Works for such Subscriber Connection from the affected land, or shall sever any existing connection between such Subscriber's Works that are located on the affected land, and those upon any land retained by the Subscriber (unless the Subscriber shall have obtained written authorization to refrain from so doing from the Utility).
15. In the event that the Subscriber's Works or the Delivery Works in relation to a Subscriber Connection should suffer rupture or leak, and the Subscriber is unable or unwilling to immediately conduct repairs, the Utility may interrupt service to the Subscriber until such time as repair is effected.
16. The Delivery Works in relation to each of the Subscriber Connections shall at all times be the property of the Subscriber and, following the construction and installation of such Delivery Works,

the Subscriber shall be responsible for the repair or replacement of such Delivery Works and all costs relating thereto; provided, however, that prior to the Subscriber repairing or replacing such Delivery Works, the Subscriber shall first give reasonable written notice to the Utility of such repairs or replacement, and where the Utility at its sole discretion determines, such repairs or replacement shall take place under the supervision of the Utility or its agent.

**D. Transmission Works**

17. Notwithstanding that the Transmission Works are located upon the Lands, such works shall remain at all times the property of the Utility.

**E. Access by the Utility**

18. The Easement Agreement set forth in Schedule "3" shall survive any termination of service by the Utility, regardless of the reason for termination.
19. The Easement Agreement runs with the land and may be registered against title thereto.
20. It is a condition of the supply of water under this agreement that the Subscriber shall at all times honour the terms of the Easement Agreement.
21. It is a further condition of the supply of water under the terms of this Agreement that the Subscriber shall provide the Utility access to the Subscriber's premises at all reasonable times, to permit the Utility to:
- (a) inspect the Transmission Works;
  - (b) inspect the Subscriber's Works and Delivery Works in relation to any of the Subscriber Connections to ensure that they conform with the terms of this Agreement and, if necessary, to inspect and read the Water Meter; and
  - (c) conduct monitoring for the purposes of permitting the Utility to comply with any federal, provincial or municipal act or regulation.
22. Any rights of access and investigation are granted to the Utility in addition to and not in substitution for any rights of access available at law.

**E. Supply of Water**

23. The Utility shall provide a connection to the Distribution System at the Delivery Point in relation to each of the Subscriber Connections. Any connection, disconnection or re-connection in relation to a Subscriber Connection to the Distribution System at the corresponding Delivery Point shall be done under the supervision of the Utility. The Subscriber acknowledges and agrees that the Subscriber shall not at any time make, permit to be made, or suffer any connection to the Distribution System or to the Delivery Works in relation to any of the Subscriber Connections that is not authorized in writing by the Utility.
24. While the Utility has designed the Distribution System and agrees to use its best efforts to supply water to the Subscriber at the Delivery Point in relation to a Subscriber Connection to a minimum consumption of 720 imperial gallons per day, it is understood and agreed that the Utility does not guarantee:
- (a) Quantity of water;

- (b) Quality of water;
- (c) Pressure; or
- (d) An uninterrupted supply of water.

and the Subscriber acknowledges that the Subscriber will be subject to disruptions of service and must agree to conform to restrictions of water supply required by the operations of the Utility, imposed by the Utility, or imposed by Sask Water.

- 25. Control of all water supplied and taken under this agreement shall pass from the Utility to the Subscriber at the Delivery Point in relation to a Subscriber Connection, and after such passage, the Subscriber shall be in control of and responsible for such water.
- 26. The Subscriber shall accept full responsibility for ensuring that the quality of water supplied meets the Subscriber's needs and shall install and be responsible for the costs of any equipment required to ensure that water quality meets the Subscriber's needs. Without limiting the generality of the foregoing, the Subscriber shall be responsible for any and all water treatment which may be required to comply with any condition, regulation or Act which may be applicable or become applicable in regard to utilization of the water supplied.
- 27. The Utility does not warrant or represent that the water supplied is potable or fit in any way for consumption and the Subscriber hereby assumes all responsibility for ensuring that any water supplied to the Subscriber and consumed by any livestock or any person will be rendered fit before such consumption.
- 28. The Subscriber accordingly, releases the Utility and its agents, servants, employees and officials from any claims, demands, actions or causes of actions, whether arising in negligence or nuisance, breach of contract or otherwise, and whether for direct or indirect, incidental or consequential damages in respect to the interruption or termination of water services, the failure or refusal to supply water services, the construction, operation and/or maintenance of the Distribution System, design, construction and repair and non- repair of the Transmission Works, the quality of water, or the supply of water, or the escape of water.
- 29. The Subscriber further agrees to indemnify and save harmless the Utility and agents, servants, employees and officials from and against all claims, demands, actions or causes of action possessed by any person, arising by reason of the operation of the Utility, whether from the installation, repair or non repair of the Distribution System, the Transmission Works, their maintenance, or the supply of water, including the interruption or termination of water services, the failure or refusal to provide water services, or the quality of water supplied, or the supply of water and without limiting the foregoing, any claim for loss or damage whatsoever arising from the use of any water supplied to the Subscriber by any person.
- 30. The Subscriber shall not supply water to any other party without first obtaining the written permission of the Utility (This provision does not prohibit provision for personal consumption or use to persons located on the Lands).
- 31. The Subscriber acknowledges and agrees that the Utility's obligations under this Agreement shall be at an end in the event that all of the conditions precedent set forth in the Connection Agreement between the parties hereto executed on the date hereof are not satisfied, removed or waived by the Utility as provided in such agreement.

**F. Cost and Payment for Service**

- 32. The Subscriber shall pay for the supply of water under this Agreement upon the terms and conditions of supply as fixed by the Utility from time to time. The terms and conditions presently in force are appended as Schedule "4".



33. In accordance with the terms and conditions as fixed by the Utility from time to time the Utility shall be entitled to disconnect service to the Subscriber if monies owing to the Utility by the Subscriber under the terms of this or any other Agreement shall be unpaid or in the event that the Subscriber should otherwise be in default pursuant to this Agreement, or any other Agreement between the Subscriber and the Utility
34. The Subscriber understands and acknowledges that any amounts payable to the Utility (including any deferred payments on account of Connection Costs) are a lien against the Lands and any buildings located thereon, and are a charge on any goods of the Subscriber pursuant to the provisions of section 31 of *The Municipalities Act*.
35. The Subscriber further acknowledges that any such lien is in priority to the interests of any person other than the Crown, and that any sums owing may be levied and collected in any way as taxes may be recoverable, including but not being limited to legal action, proceedings against the title to the land and distress and sale of personal property.

**G. General**

36. The rights created by this Agreement are personal to the Subscriber only, and may not be transferred to any other person.
37. It shall be a pre-condition of water supply under this Agreement that the Subscriber shall satisfy the Utility that the Subscriber's sewage facilities comply with all Acts, regulations and other requirements. At all times the Subscriber shall maintain its sewage disposal system so that such system satisfactorily complies with all applicable legislation and regulations thereunder.
38. Saskatchewan Health is responsible for administering *The Saskatchewan Plumbing Drainage Regulations*. The Subscriber is required to contact Saskatchewan Health regarding the plumbing regulations and a permit must be obtained by the Subscriber prior to connecting to any water system.
39. The Utility may, at any time, discontinue its service and remove any facilities from the Subscriber's premises in any case where, in the Utility's opinion, and such opinion is confirmed by the Minister of Environment, the Subscriber is contravening any Federal, Provincial or Municipal law relating to the pollution of the environment, whether such pollution involves the pollution of air, soil or water or constitutes any other industrial nuisance. In the event the Utility should elect a discontinuance of supply of water as hereunder provided, this Agreement shall there upon terminate without further formality effective as of the date indicated by the Utility and notice to the Subscriber to that affect.
40. This Agreement shall take effect on execution by the Utility, and shall continue until terminated by the Subscriber or the Utility upon three months notice in writing or otherwise terminated pursuant to this Agreement.
41. Termination of this Agreement shall not affect the Subscriber's obligation to pay any sums owing hereunder or pursuant to any other agreement, which obligation shall remain in full force and effect.
42. The Utility shall be permitted to assign its rights and obligations under this Agreement at the Utility's discretion and the Subscriber has no right of approval and the consent of the Subscriber thereto shall not be required.
43. The rights and responsibilities of the parties hereunder shall enure to the benefit of the heirs, successors in title and permitted assigns.

**IN WITNESS WHEREOF** the Utility has caused to be set its seal duly attested by the signatures of its proper officers in this regard this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

**HIGHWAY 41 WATER UTILITY**

(c.s.)

Per: \_\_\_\_\_

Per: \_\_\_\_\_

I / We have authority to bind the Corporation.

**IN WITNESS WHEREOF** the Subscriber has executed this Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

(c.s.)

Per: \_\_\_\_\_

Per: \_\_\_\_\_

I / We have authority to bind the Corporation.

**SCHEDULE "1"**  
**to Water Supply Agreement**

**LEGAL DESCRIPTION OF LANDS**

**Mailing Address of Subscriber:**

**Phone No.:**

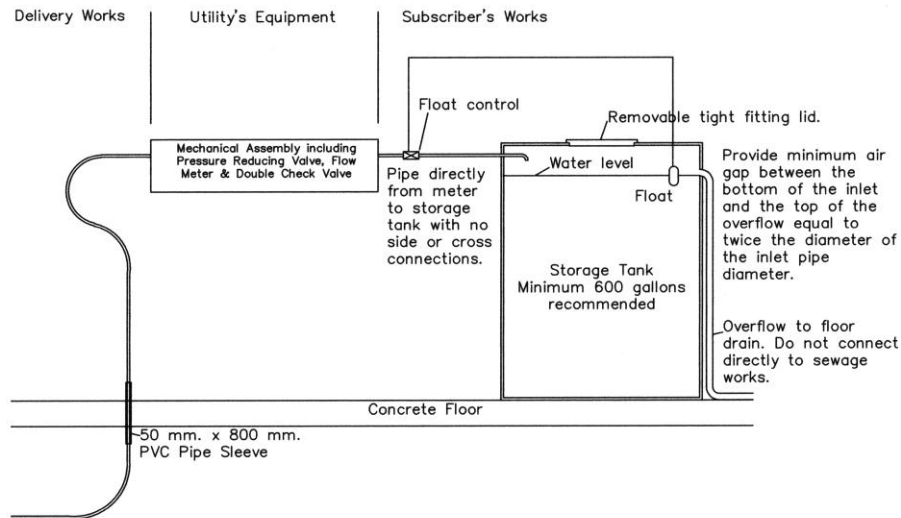
**Legal Land(s) Location to be Connected:**

**Title No.(s):**

**Municipality in which Land is Located:**

**SCHEDULE "2"**  
**to Water Supply Agreement**  
**SUBSCRIBER'S WORKS**

The Subscriber shall construct at the Subscriber's own expense, facilities substantially in compliance with the diagram below:



Typical Air Gap Illustration

Note that it shall be mandatory for the Subscriber to:

- (a) Install a water storage facility (cistern or water tank) to store water for pressurization and further use. The minimum recommended by the Utility is 600 imperial gallons;
- (b) Ensure that there is at all times an air gap between the incoming pipe and the storage facility;
- (c) Ensure that a flow restrictor is in place at all times.

**SCHEDULE "3"**  
**to Water Supply Agreement**

**PUBLIC UTILITY EASEMENT**  
**& RIGHT OF WAY**

**Made effective the \_\_\_\_\_ day of \_\_\_\_\_, 2008.**

( I ) / We, the undersigned (hereinafter called "the Grantor"), being registered owner (s) or having a legal interest of or in the land herein described DO HEREBY grant an easement in consideration of the sum of \$1.00, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, for a right-of-way over the land herein described, being:

**Legal Land Description**  
**Title No.(s):**

to HIGHWAY 41 WATER UTILITY ( "the Utility"), such easement to consist of:

The right of the Utility and its respective employees, agents, licensees, successors and assigns to enter upon the land with the necessary vehicles and equipment and to affix, construct and place upon, over, under or across the land, a water pipeline, together with all necessary structures, apparatus and equipment (hereinafter called "the pipeline") required for the Utility's purposes, and to maintain, inspect, repair, replace and remove the pipeline as required for the continued operation of the pipeline (herein the "purpose") .

The Grantor shall be allowed free access to, and use of, the land except to the extent that it may be necessary for the Utility and their agents (servants, employees, licensees, successors) to use the land for the purpose aforesaid.

The Grantor shall not erect or place any fence, buildings or structure of any kind, nor pile or place any stones, rock, dirt, rubbish or any other thing including trees or shrubs on or over the pipeline or within 5 meters of the pipeline. Prior to undertaking any construction, excavation, deposit or planting, the Grantor shall be responsible for locating the pipeline location (with the assistance of the Utility) so as to ensure that the Grantor complies with the foregoing requirement of this Agreement. Nothing herein contained shall be deemed to vest in the Utility any title to mines, ores, metals, coal, slate, oil, gas or other minerals in or under the land comprising the said right-of-way, except only the parts thereof that are necessary to be dug, carried away or used in the laying down, construction, operation, maintenance, inspection, alteration, removal, replacement, reconstruction and/or repair of the said pipeline.

The Grantor releases the Utility from any claim for damages, howsoever caused, including negligence or nuisance, and agrees to indemnify and save the Utility harmless from any claim or claims howsoever arising and whether in nuisance or negligence arising out of or in relation to the pipeline or the purpose.

This grant is of the same force as a covenant running with the land and shall enure to the benefit of and is binding upon the Grantor, the Utility and their respective executors, administrators, successors and assigns.

In Witness Whereof (I) / We, the Grantor (s) have hereunto subscribed (my) our name (s) the day and year first above written, in the presence of:

Per: \_\_\_\_\_

(c.s)

Per: \_\_\_\_\_

I / We have authority to bind the Corporation.

**SCHEDULE "4"**  
**to Water Supply Agreement**

**COST OF WATER SUPPLY**

1. The Subscriber shall pay for all water supplied by the Utility at a rate of \$10.01 per 1000 imperial gallons thereof, however, in no event shall the Subscriber pay for less than a minimum usage allocation of 6000 gallons per quarter.
2. The Subscriber's obligation to pay for minimum usage shall, at the Discretion of the Board, remain in full force and effect even though service to the Subscriber may have been terminated in accordance with any Water Supply Agreement or any rule or regulation of the Utility.
3. In the event that the Utility should consider it advisable to adjust the price to be paid for supplied water, then the price may be adjusted by the Utility by resolution, such adjusted price to be effective 60 days after written notice is given to Subscribers by the Utility.
4. Meters will be read quarterly, but in the event that it shall not be practicable for the Utility to obtain a meter reading for a Subscriber, the Utility may estimate usage and invoice on that basis, with billings to be adjusted on the basis of the next actual meter reading.
5. All invoices and other notices shall be mailed to the Subscriber at the mailing address provided by the Subscriber from time to time. Invoices shall be paid no later than 30 days from the date of the invoice.
6. In the event that an invoice is not paid within 30 days, then the amount billed on that invoice, or such portion thereof as shall be owing from time to time shall bear interest at the rate of 2% per month, calculated and compounded monthly. Payments made on arrears will be credited first to interest and then to any principal sum owing.
7. In the event that a Subscriber shall be in arrears of payment of water charges or any other sum owing to the Utility for 60 days or more, the Utility may terminate the Subscriber's water supply until such time as the account is brought current.
8. In the event that there should be unpaid sums owing to the Utility by a Subscriber, then, in such event, the Utility may require the municipality in which the Subscriber's land is located to add the amount of such arrears to the taxes owing on the lands and to thereafter collect and remit such sums in accordance with any agreement between the Utility and the municipality.

**SCHEDULE "C"**  
**to Water Pipeline Connection Agreement**

**DEFERRED PAYMENT OPTION**  
**TERMS AND CONDITIONS**

In the event that the Subscriber shall have elected to defer payment of a portion or all of the connection costs pursuant to subparagraph 20(b)(ii) or (iii) of the Agreement, as the case may be, the following terms and conditions shall govern the deferred payment:

1. The amount deferred shall bear interest at the rate which the Utility must pay from time to time to the financial institution that lends the Utility money in order for the Utility to obtain long term financing as a result of subscribers' deferral payments of connection fees, plus 2% per annum.
2. The deferred payment and any interest owing thereon (in the aggregate, the "Indebtedness") shall constitute a debt due and owing to the Utility by the Subscriber, and shall be secured in the manner referenced in Part "G" of the Agreement;
3. The Indebtedness is payable at any time upon demand by the Utility commencing on the date of substantial completion of the Distribution System (to be determined by the Utility at its absolute discretion). Until the date of demand, the Subscriber shall make payments of principal and interest in an amount equal to that required to amortize and pay out the Indebtedness 15 years from the date of substantial completion of the Distribution System. The first payment shall be due on such date as may be designated by the Utility, provided that such first payment shall not be required before the date of substantial completion of the Distribution System, and subsequent payments shall be due on the same day of each and every month thereafter. The Utility may, in its discretion, amend the frequency of payments upon giving 60 days' written notice thereof to the Subscriber, provided that the Utility shall not require payments to be made more frequently than once per month.
4. In the event that the Subscriber shall accept an offer to purchase the Lands or any portion thereof, or shall enter an agreement for sale for all or part of the Lands, then in such event, the Subscriber shall be deemed to have been given demand for payment and the entirety of the Indebtedness shall become due and payable.
5. In the event that demand for payment of the Indebtedness shall be made, the Utility may, in its sole discretion, add to the Indebtedness the amount of any other amounts owing by the Subscriber to the Utility, pursuant to the Water Supply Agreement or otherwise, and to collect those sums as part of the Indebtedness.
6. To better secure the Indebtedness, the Subscriber hereby mortgages and charges all the Subscriber's right, title and interest in the Lands, including all fixtures thereon. The Subscriber further agrees to at any time, upon request of the Utility, to further secure the Indebtedness by executing a mortgage of any and all land owned by the Subscriber within the Province of Saskatchewan.
7. To further secure the Indebtedness, the Subscriber hereby grants the Utility a security interest in all of the Subscriber's present and after acquired personal property wherever situate, and the proceeds thereof. The Subscriber waives the requirement that the Utility provide a copy of any financing statement or financing change statement to the Subscriber.