



Strathcona County

**Water Supply Agreement with Capital Region Northeast Water
Services Commission**

September 28, 2023

Alberta Utilities Commission

Decision 28422-D01-2023

Strathcona County

Water Supply Agreement with Capital Region Northeast Water Services Commission

Proceeding 28422

September 28, 2023

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The Commission may, no later than 60 days from the date of this decision and without notice, correct typographical, spelling and calculation errors and other similar types of errors and post the corrected decision on its website.

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1 Decision summary

1. In this decision, the Alberta Utilities Commission approves a Water Supply Agreement between Strathcona County and Capital Region Northeast Water Services Commission (CRNWSC) for a term of 20 years beginning April 26, 2023, pursuant to Section 30(1) of the *Municipal Government Act*.

2 Background

2. The Commission received an application, from Strathcona County, on August 25, 2023, requesting approval of a water supply agreement with CRNWSC.

3. The Commission issued notice of Strathcona County's application on August 28, 2023. The notice of application was also published in Sherwood Park News on September 7, 2023. Interested parties were to register their concerns by September 14, 2023. As no submissions were received, the Commission has reviewed and considered this application without further process.

4. Between January and April 2023, Strathcona County Council and the CRNWSC board of directors authorized Strathcona County and CRNWSC to enter into a potable water supply agreement with each other. Strathcona County filed council and board meeting minutes¹ as background information for the application.

5. The proposed Water Supply Agreement provides that Strathcona County will supply water to CRNWSC, and that a portion of the waterline owned by CRNWSC is to be transferred to Strathcona County under the terms and conditions set out in the agreement. As part of the agreement, CRNWSC is prepared to occasionally supply water to Strathcona County for emergency or maintenance services.

6. In the application, Strathcona County declared that:

- (a) The supply of potable water committed to under the Water Supply Agreement is necessary and proper for the public convenience and properly conserves the public interest.
- (b) The provisions of potable water to CRNWSC under the provisions of the Water Supply Agreement is reasonable and for the benefit of the residents of municipality by

¹ Exhibit 28422-X0003, Strathcona County Council Meeting Minutes; and Exhibit 28422-X0004, CRNWSC Board Meeting Minutes.

recovering the full cost of service and benefits the customers of CRNWSC by providing for cost-effective and secure source of potable water.

- (c) The municipality discussed the Water Supply Agreement with Strathcona County Council, and Strathcona County Council understands the reasons for the same and is in agreement with them.
- (d) CRNWSC board of directors discussed the Water Supply Agreement, and CRNWSC board of directors understands the reasons for the same and is in agreement with them.²

7. In its arrangement to supply water to CRNWSC, Strathcona County will provide potable water to CRNWC consistent with the terms and conditions of the current Water Supply Agreement between Strathcona County and EPCOR Water Services Inc. and the proposed Water Supply Agreement in the current application, effective April 26, 2023, for a term of 20 years.

8. Section 30(1) of the *Municipal Government Act* states:

If a council proposes to make an agreement to supply water, steam or fuel to a public utility for a period that, with rights of renewal, could exceed 5 years, the agreement must be approved by the Alberta Utilities Commission before it is made.

9. Based on the review of the Water Supply Agreement, the Commission is satisfied that the service agreement between Strathcona County and CRNWSC, as it relates to the supply of potable water, is necessary and proper for public convenience and properly serves the public interest. However, the asset transfer of the waterline, referred to in the agreement as the “Southside Supply Line,”³ does not require Commission approval under Section 30(1) of the *Municipal Government Act*.

10. On that basis and noting the absence of any objection to the application pursuant to Section 30(1) of the *Municipal Government Act*, the Commission hereby approves the potable water supply agreement, as attached to this decision as [Appendix 2](#).

3 Order

11. It is hereby ordered that:

- (1) Pursuant to Section 30(1) of the *Municipal Government Act*, the Commission hereby approves the potable water supply agreement, as filed.

² Exhibit 28422-X0001, Application Letter to AUC from Strathcona County, PDF pages 1-2.

³ Exhibit 28422-X0002, Water Supply Agreement, page 1.

Dated on September 28, 2023.

Alberta Utilities Commission

(original signed by)

Chris Arnot
Director, Retail Energy and Water
On behalf of the Alberta Utilities Commission

Appendix 1 – Proceeding participants

Name of organization (abbreviation) Company name of counsel or representative
Strathcona County

Alberta Utilities Commission
Delegated authority C. Arnot, Director, Retail Energy and Water
Commission staff E. Chu J. Schimke

Appendix 2 – Water Supply Agreement

[\(return to text\)](#)



Appendix 2 - Water
Supply Agreement

(consists of 25 pages)

OTH-UTL-1504

THIS AGREEMENT made the 26th day of April, 2023.

BETWEEN:

STRATHCONA COUNTY
(the "County")

- and -

CAPITAL REGION NORTHEAST WATER SERVICES COMMISSION
(the "Commission")

WATER SUPPLY AGREEMENT

WHEREAS:

- A. The County receives Water (as that term is hereinafter defined) under those certain terms and conditions set forth in the EPCOR Agreement (as that term is hereinafter defined);
- B. The Commission wishes to purchase Water from the County and the County wishes to sell and deliver Water to the Commission on terms and conditions consistent with the EPCOR Agreement and on the terms and conditions set out in this Agreement;
- C. The County wishes to acquire, and the Commission wishes to transfer to the County, a portion of the waterline owned by the Commission as of the date of this Agreement known as the "Southside Supply Line", in the location and on the terms and conditions set out in Schedule "E" to this Agreement, and;
- D. The Commission is prepared to supply Water to the County from time to time for the purpose of the provision of emergency or maintenance services by or on behalf of the County, on the terms and conditions set out in Schedule "F" to this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSETH that in consideration of the mutual agreements contained within this Agreement, the parties hereby agree as follows:

1. Definitions

In this Agreement, the following words will have the described meaning unless expressly stated otherwise:

- (a) "Agreed Variance" means the standard for accuracy for the Meter being tested and calibrated as specified in the latest edition of the American Water Works Association C- 700 Series Standards, as amended or replaced from time to time;
- (b) "Agreement" means this Water Supply Agreement including the preamble, all attached Schedules and all documents produced or delivered according to the terms of this Agreement;

- (c) "Annual Quantity" means for each calendar year during the Term the quantity of Water for that year determined according to the provisions of Schedule "A";
- (d) "Assets" has the meaning set out in Schedule "E" to this Agreement;
- (e) "Best Efforts" means, in relation to the performance of an obligation, efforts that are sensible and practical, and involve the exercise of reasoned and sound judgment, having regard to all of the relevant circumstances;
- (f) "Cross Connection" means any physical connection to the County's Watermains whereby any source of raw water or non-potable water becomes connected with the Watermain;
- (g) "Effective Date" means the date of this Agreement;
- (h) "EPCOR" means EPCOR WATER SERVICES INC. a body corporate duly incorporated pursuant to the laws of the Province of Alberta, currently managing the distribution, treatment and transmission assets of the City of Edmonton used to provide water service to customers, including regional customers;
- (i) "EPCOR Agreement" means the current water supply agreement between the County and EPCOR, and any successor entity;
- (j) "EPCOR Rate" means the bulk water rate charged by EPCOR to the County pursuant to the EPCOR Agreement from time to time;
- (k) "Equipment" means all necessary valves, pressure and flow controls, associated equipment and pipes with respect to the New or Existing Meter Chamber. Equipment does not include the Meter;
- (l) "Existing Meter Chamber" means the physical structure (including Equipment) known as the Southside Meter Vault;
- (m) "Interest" means twelve (12%) percent per annum, calculated and compounded monthly;
- (n) "Maximum Daily Quantity" means for each day during a calendar year the maximum quantity of Water for that day determined according to the provisions of Schedule "A";
- (o) "Meter" means the consumption measuring device owned by the County and located in the Existing or New Meter Chamber, as the case may be;

- (p) "New Meter Chamber" means the physical structure (including Equipment) to be constructed and installed by the County in accordance with the requirements of Schedule "E" of this Agreement;
- (q) "ML" means one million (1,000,000) liters;
- (r) "Point of Delivery" means the location shown or described in Schedule "B" where Water is delivered to the Commission by Strathcona County;
- (s) "Rate " means the price for Water determined from time to time according to the provisions of Schedule "C";
- (t) "Schedules" means those Schedules attached hereto which form part of this Agreement including:
- (i) Schedule "A" - Annual Quantity and Maximum Daily Quantity
 - (ii) Schedule "B" - Point of Delivery and Existing Meter Chamber
 - (iii) Schedule "C" - Rate
 - (iv) Schedule "D" - Dispute Resolution
 - (v) Schedule "E" - Transfer of Assets and Transitional Matters
 - (vi) Schedule "F" - Supply of Water for Emergency Services
- (u) "Term" means the term of this Agreement being:
- (i) a period of twenty (20) years commencing on the Effective Date;
or
 - (ii) if section 30 of the *Municipal Government Act*, RSA 2000, c M-26, applies and the approval of the Alberta Utilities Commission contemplated therein is not obtained, then a period of five (5) years commencing on the Effective Date;
- subject to earlier termination in accordance with the provisions contained herein;
- (v) "Volume Consumption Benefit" or "VCB" means an amount equal to One Million, One Hundred and Twenty-Five Thousand, Eighty-One (\$1,125,081) dollars, as more particularly set out in Section 5 of this Agreement;
- (w) "VCB Interest Rate" means five decimal zero seven (5.07%) percent.

- (x) "Water" means treated water which has been supplied to the County by EPCOR under to the EPCOR Agreement; and
- (y) "Watermain" means a water pipeline under pressure used to supply or deliver Water.

2. **Mutual Obligations**

The Parties' obligations arising under this Agreement are subject to the following conditions:

- (a) The Parties shall, at all times during the Term, comply with the provisions contained within the EPCOR Agreement. For further clarity, the Commission shall not by its actions or inactions cause or permit the County to be in breach of any of the County's obligations pursuant to the EPCOR Agreement;
- (b) If the EPCOR Agreement is re- opened or re-negotiated and amended, the parties hereto shall undertake their respective Best Efforts to amend this Agreement:
 - (i) in order to keep each of the respective parties in compliance with their respective obligations under the EPCOR Agreement; and
 - (ii) any such amendments shall be made consistent with the spirit and intent of this Agreement.

3. **General Terms**

- (a) This Agreement may not be assigned by either party without the prior written consent of the other party, which consent shall not be unreasonably withheld, provided however the County may assign this Agreement without consent of the Commission in accordance with the following:
 - (i) The County shall consult with the Commission in respect of any proposed assignment in order to obtain the Commission's views and comments in respect of the assignment;
 - (ii) The County shall deliver written notice to the Commission that it has made an agreement to assign this Agreement to a third party six (6) months before the effective date of such assignment, such notice to include:
 - (1) the name of the third party taking the assignment of this Agreement; and
 - (2) the effective date of such assignment;

providing further that nothing in this paragraph 3(a) shall require the County to obtain the Commission's consent to any assignment that occurs in relation to a reorganization of the County's corporate structure, business or affairs involving one or more subsidiaries or affiliates of the County or of any corporation owned by the County.

- (b) This Agreement is for the benefit of and binds the parties and their respective successors and permitted assigns.
- (c) Any term of this Agreement which is determined to be void, unenforceable or illegal will be severed from this Agreement. The remaining terms will be effective and enforceable.
- (d) The headings are for reference only and will not be used to interpret or construe this Agreement.
- (e) Time is of the essence for every part of this Agreement.
- (f) Any notice, consent or communication required by this Agreement must be in writing and will be delivered by electronic mail, hand or by courier to the following addresses or will be telecopied to the following telephone numbers, as the case may be:

(i) **to the Commission:**

address:

Capital Region Northeast Water Services Commission
c/o Brownlee LLP
2200 Commerce Place
10155 – 102 Street NW
Edmonton, AB T6J 4G8
Attention: Commission Manager

facsimile no.: (780) 424-3254

email: crnWSC-mgr@outlook.com

(ii) **to the County:**

address:

Strathcona County Utilities Department
2001 Sherwood Drive
Sherwood Park, AB T8A 3W7
Attention: Director

facsimile no.: (780) 464-0557

email: jason.casault@strathcona.ca with copy to
contractmanagement@strathcona.ca

- (g) This Agreement will be governed by and construed according to the laws of the Province of Alberta.
- (h) Wherever the singular, plural, masculine, feminine or neuter is used throughout this Agreement the same shall be construed as meaning the singular, plural, masculine, feminine, neuter, body politic or body corporate where the fact or context so requires and the provisions hereof.
- (i) This Agreement is the only agreement between the parties in relation to the subject matter hereof, and supersedes and replaces all prior water supply agreements, representations, warranties, statements, promises, information, arrangements and understandings, whether oral and written, express or implied, with respect to the subject matter hereof. This Agreement may only be amended or modified by a further written agreement of the parties.

4. Respective Obligations of the Parties

- (a) The County agrees to sell and deliver the Annual Quantity of Water to the Commission at the Point of Delivery and to meter the Water supplied to the Commission according to the terms of this Agreement.
- (b) The Commission agrees to buy and accept delivery of the Annual Quantity of Water from the County at the Point of Delivery according to the terms of this Agreement.
- (c) The County will use Best Efforts to:
 - (i) make Water available to the Commission each calendar year as required by the Commission up to a maximum amount equal to the Annual Quantity for that calendar year;
 - (ii) subject to paragraph 4(c)(i), make Water available to the Commission each day as required by the Commission up to a maximum amount equal to the Maximum Daily Quantity for that day, provided, that the County shall have no obligation to supply Water to the Commission at flow rates in excess of the Maximum Daily Quantity divided by twenty-four (24);
 - (iii) provide Water to the Commission with sufficient pressure to deliver Water to the Point of Delivery. For further clarity, the County will not be in default of its obligation if operationally the pressure drops below this setting through circumstances beyond the control and/or operational responsibility of the County, and;

- (iv) avoid situations where it is unable to supply the Commission the quantity of Water required by the Commission.
- (d) The Commission will provide the County with such information as the County may reasonably request from time to time in respect of the actual consumption of Water by the Commission.
- (e) While the Commission acknowledges its intention to buy and accept the Annual Quantity of Water from the County, it is understood and agreed by the parties that circumstances may change from time to time and that the requirements of the Commission may exceed or be less than the Annual Quantity of Water and the County's ability to supply Water may exceed or be less than the Annual Quantity of Water.
- (f) The Commission will pay for all Water measured by the County at the Meter.
- (g) The Commission will pay for all Water at the Rate established and in effect from time to time in accordance with Schedule "C".
- (h) The Commission will pay for all Water by monthly payments based upon billings prepared by the County. The County will provide monthly billings to the Commission at least twenty-one (21) days in advance of the due date for payment. If the Commission fails to pay by the due date, then the Commission shall pay Interest on all outstanding amounts.
- (i) The Commission will be responsible for all treatment required for the Water received from the County after the Point of Delivery that may be required to ensure the Water is safe for human consumption. The parties hereto specifically acknowledge and agree that all Water to be delivered to the Commission hereunder is such Water that the County will have received pursuant to the EPCOR Agreement and that the County shall deliver such Water to the Commission in substantially the same quality as the County received the same under the EPCOR Agreement. Further, the County is not required to treat or condition such Water prior to delivery to the Commission.
- (j) The Commission and the County are individually responsible for obtaining, at their sole expense, all necessary consents, approvals or orders from any level of government, board, tribunal, commission or other regulatory authority which is or are required in order for each of them to enter into this Agreement or to perform and satisfy their respective obligations described herein. The Commission and the County will cooperate with each other and will provide reasonable assistance to each other, when requested. The Commission will cooperate and provide

reasonable assistance, and execute any consents or documents required, with respect to same.

- (k) The Commission will not allow or permit any Cross Connection.
- (l) The Commission shall exercise its Best Efforts to provide itself with the necessary quantity of water storage at required locations for supply interruption and peak balancing purposes to ensure that the Maximum Daily Quantity supply rate is not exceeded.

5. Volume Consumption Benefit

- (a) The Volume Consumption Benefit shall be applied as follows until such time as the Volume Consumption Benefit is reduced to zero (\$0.00) Dollars:
 - (i) Effective December 31st of each year of the Term the VCB shall be reduced by thirty (\$0.30) cents for each cubic metre of Water delivered by the County to the Commission pursuant to this Agreement in the immediately preceding year;
 - (ii) Following the reduction set out in paragraph 5(a)(i), interest calculated at the VCB Interest Rate shall be added to the balance of the Volume Consumption Benefit, and;
 - (iii) Effective as of the date upon which the Volume Consumption Benefit is equal to zero (\$0.00) dollars, the Rate shall be calculated as set forth in paragraph 2 of Schedule "C".
- (b) Notwithstanding any other provision of this Agreement, if the value of the VCB has not reached zero (\$0.00) dollars prior to the expiration of the Term, then:
 - (i) if the Term is determined in accordance with this Agreement to be a period of twenty (20) years commencing on the Effective Date, the value of the VCB shall be deemed fully depleted and reduced to zero (\$0.00) dollars at the expiration of the Term, regardless of the volume of water actually purchased by the Commission from the County during the Term, and the County shall have no further liability with respect to the VCB or obligation to provide water to the Commission at a preferential or adjusted rate; or
 - (ii) if the Term is determined in accordance with this Agreement to be a period of five (5) years commencing on the Effective Date, the County shall pay the Commission the sum equal to the lesser of \$828,287.94 or the value of the VCB as of the date of the expiration of the Term, accounting for any partial periods.

6. Metering and Supply

- (a) The Commission will care for, keep safe, maintain, repair and replace the New Meter Chamber. The Commission will provide reasonable access to the New Meter Chamber to the County for the purposes set out in paragraph 6(b) and (c)) below.
- (b) The County will care for, keep safe, maintain, repair and replace the Meter and the Existing Meter Chamber. The County will provide reasonable access to the Existing Meter Chamber to the Commission for the purpose set out in paragraph 6(d) below.
- (c) Once a year, the County will test the Meter for accuracy. The County will pay for these tests.
- (d) After notifying the County in writing, the Commission may test the Meter for accuracy. The County may be present at any test.
- (e) If at any time the Existing or New Meter Chamber or the Meter is out of service or is being repaired so that the measurement of the volume of Water being delivered is not being recorded accurately within the Agreed Variance, or if a test determines that the Meter has not registered accurately within the Agreed Variance, the Existing or New Meter Chamber or the Meter shall be repaired or adjusted as soon as reasonably practicable, the measurement shall be corrected for a period definitely known or agreed upon, or if not known or agreed upon for one-half of the period since the last Meter test, and the measurements shall be determined or adjusted, as the case may be, to correct for the degree of inaccuracy using the best available data in the following priority:
 - (i) by estimating the volume based upon deliveries under similar conditions during a period of time when the Existing or New Meter Chamber and Meter were working accurately;
 - (ii) by correcting the error, if the percentage of the error is ascertainable by calibration, test or mathematical calculation; or
 - (iii) by using any check measuring equipment if installed and if accurately registering within the Agreed Variance.
- (f) Where a test (other than an annual test) indicates that the accuracy of the Meter exceeds the Agreed Variance, the County will pay for the test. Where a test (other than an annual test) does not indicate that the accuracy of the Meter exceeds the Agreed Variance, the Commission will pay for the test.

7. Repairs, Maintenance, and Replacements

- (a) The County may interrupt or curtail Water service for periods of time as it may reasonably require for the purpose of effecting any repairs, maintenance, replacement, upgrading or other work relating to their water supply system providing service under this Agreement provided that:
 - (i) The County has given the Commission at least forty-eight (48) hours prior notice, or in the event of an emergency or unforeseen circumstances, the County gives notice of such interruption or curtailment as soon as is reasonably possible; and
 - (ii) The County acts reasonably in using Best Efforts to restore services as soon as reasonably possible.
- (b) The County will use Best Efforts to coordinate the repairs, maintenance, replacement, upgrading and other work referred to in paragraph 7(a) with the Commission so as to minimize to the extent reasonable the inconvenience to the Commission of interruptions and curtailments.
- (c) During periods of interruption or curtailment provided for in paragraph 7(a), the County may reduce the level, or quantity of service provided to the Commission under this Agreement, provided that the County shall treat all of its customers affected by the interruption or curtailment, including the Commission, fairly, equitably and without preference, consistent with any operating constraints then in effect. The Commission and the County shall use Best Efforts to keep each other apprised of and up-to-date in respect of the relevant circumstances during each interruption or curtailment.

8. Force Majeure

- (a) For the purposes of this Agreement, "Force Majeure" shall mean any cause not reasonably within the relevant party's control and will include, without limitation, acts of God, strikes, lockouts or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightening, earthquakes, storms, floods, high waters, washouts, inclement weather, orders or acts of civil or military authorities, civil disturbances, or any other causes, whether of the kind herein enumerated or otherwise, not within the reasonable control of the party and which, by the exercise of due diligence, the party is unable to overcome, provided that lack of funds shall not be a cause beyond control. For the purposes of this Agreement, the pandemic known as COVID-19, and subsequent iterations thereof, shall not be considered a Force Majeure.
- (b) Neither party hereto shall be liable to the other for any failure of or delay in the performance of its obligations hereunder nor be deemed to be in breach of this Agreement, if such failure or delay has arisen from Force Majeure.

- (c) Where either party is prevented from carrying out its respective obligations hereunder due to Force Majeure, such party shall, as soon as possible, give notice of the occurrence of such Force Majeure to the other party and of the obligations, the performance of which is thereby delayed or prevented and the party giving the notice shall thereupon be excused from the performance of such obligation for the period of time directly attributable to such prevention or delay.
- (d) During the period of Force Majeure, the County may impose reasonable restrictions on the delivery of Water, provided that the County shall treat all of its customers affected by the Force Majeure, including the Commission, fairly, equitably and without preference, consistent with any operating constraints then in effect.
- (e) The parties agree that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the particular party involved therein and such party may make settlement thereof in such time and on such terms and conditions as it may deem to be advisable and no delay in making such settlement shall deprive such party of the benefits of this section.

9. Liability, Damages, and Mutual Indemnity

- (a) Unless the cause is proven to be due directly to the negligence of the County, its employees or agents, the County will have no liability to the Commission whatsoever for any damage, loss, cost or expense resulting from, arising out of or associated with:
 - (i) a break of any Watermain, service pipe or collapse of any ditch or trench;
 - (ii) the interference or suspension of the supply of Water due to maintenance work to, repair work to or replacement work for the County's water supply system or an emergency situation regarding any part of the County's water supply system; and
 - (iii) any accident to or failure of any part of the County's water supply system.
- (b) Notwithstanding any other provision of this Agreement, neither the County nor the Commission will be liable to the other for any indirect, consequential or punitive damages, including loss of profits or revenues or other similar damages.
- (c) Each party (the "Indemnifying Party") agrees to indemnify and save harmless the other party (the "Indemnified Party"), its agents and

employees from and against any and all damage, injury, loss, costs, causes of action, including legal costs on solicitor and own client full indemnity basis, and claims suffered or incurred by the Indemnified Party, its agents or employees which are in any way connected with the performance or non-performance of this Agreement and which are caused either directly or indirectly or contributed to in whole or in part by any act or failure to act of the Indemnifying Party, its agents and employees, in respect of which Indemnifying Party, its agents or employees are liable or otherwise responsible in law, provided that such indemnity shall be limited to an amount in proportion to which the Indemnifying Party, its agents and employees are at fault or otherwise held responsible in law.

10. Term and Holdover

- (a) Both parties will diligently pursue the approval of the Alberta Utilities Commission pursuant to section 30 of the *Municipal Government Act*, RSA 2000, c M-26, with respect to this Agreement.
- (b) If this Agreement has not otherwise been terminated in accordance with the provisions hereof, and the parties hereto have not entered into a written renewal or extension of this Agreement, then upon the expiry of the Term the County may, but shall not be obliged, to continue to supply Water to the Commission upon such reasonable terms and conditions as the County may deem appropriate.

11. Default and Termination

- (a) A party shall be deemed to be in default hereunder if any of the following events occur (each of the following events to be referred to as an "Event of Default", the party in default to be referred to as the "Defaulting Party" and the party not in default to be referred to as the "Non-defaulting Party"):
 - (i) a party fails to make a payment as required by any provision of this Agreement including failure to pay an indemnity amount required to be paid pursuant to the terms of this Agreement (a "Payment Default"); or
 - (ii) a party fails to perform any of its obligations under this Agreement (which, for greater certainty, shall not include obligations resulting in a Payment Default if not performed) (each such event being a "Performance Default").
- (b) If a party claims that there has been a Payment Default or Performance Default committed by or affecting the other party, the party making the claim shall give to the party alleged to be in default a notice (hereinafter referred to as the "Notice of Default"). The Notice of Default shall specify and provide particulars of the alleged Event of Default. In the event the

alleged Event of Default is capable of being remedied, the party alleged to be in default shall:

- (i) have a cure period of thirty (30) days after receipt of the Notice of Default with respect to a Payment Default;
 - (ii) subject to paragraph 11(b)(iii), have a cure period of thirty (30) days after receipt of the Notice of Default with respect to a Performance Default; or
 - (iii) if a Performance Default is such that it cannot be reasonably remedied within thirty (30) days after receipt of the Notice of Default, have a reasonable period of time to cure the Performance Default provided that the Defaulting Party promptly commences and diligently continues thereafter to remedy the Event of Default.
- (c) If before the expiry of the later of the cure period (if any) referred to in paragraph 11(b) or the time to cure specified in the Notice of Default the Defaulting Party cures the Event of Default, the Default Notice shall be inoperative and the Defaulting Party shall lose no rights hereunder.
- (d) In the event that a Notice of Default has been given and the party alleged to be in default does not cure or remedy the Event of Default in the manner contemplated by paragraph 11(c), subject to Section 9 (Liability, Damages and Mutual Indemnity) of this Agreement the Non-defaulting Party shall have the following rights and remedies:
- (i) in the case of a Payment Default, to charge the Defaulting Party Interest with respect to the unpaid amount until it is paid, calculated daily, regardless of whether the Non-defaulting Party has notified the Defaulting Party in advance of its intention to charge Interest with respect to the unpaid amount; and/or
 - (ii) in the case of a Performance Default, the Non-defaulting Party may but shall not be obligated to, either directly or indirectly by engaging a third party or otherwise, as the case may be, do all such things in order to rectify such Event of Default at the sole cost and expense of the Defaulting Party; and/or
 - (iii) in the case of any Event of Default, the Non-defaulting Party may:
 - (1) suspend performance of its obligations under this Agreement, including the right to suspend any payment owing pursuant to this Agreement; and/or

- (2) set-off against the unpaid amount any sums due or accruing to the Defaulting Party by the Non-defaulting Party in accordance with this Agreement; and/or
 - (3) maintain an action or actions for the unpaid amount and Interest thereon on a continuing basis as the amounts become payable but are not paid by the Defaulting Party, as if the obligation to pay those amounts and the Interest thereon was a liquidated demand due and payable on the date the amounts were due to be paid, without any right or resort of the Defaulting Party to set-off or counter-claim; and/or
 - (4) terminate this Agreement without penalty.
- (iv) Without limitation to any other provision of this Agreement, either party may terminate this Agreement on four (4) years' written notice to the other party. In the event of termination of this Agreement by the County pursuant to this paragraph 11(d)(iv), the County shall pay the Commission the sum equal to two times the value of the VCB as of the effective date of termination of this Agreement, accounting for any partial periods. In the event of termination of this Agreement by the Commission pursuant to this paragraph 11(d)(iv), the County shall have no further liability to the Commission with respect to the VCB.

12. Mediation and Remedies

- (a) If a dispute arises between the Commission and the County regarding the interpretation, application, operation or breach of this Agreement or any part of it and the dispute is not within the jurisdiction of the Alberta Utilities Commission, the Land and Property Rights Tribunal, or any of their successor entities, the dispute must be submitted to mediation before either party may take any additional action or step or pursue any available remedy other than to preserve the right to pursue such remedy. The mediation process is described in greater detail in Schedule "D".
- (b) Notwithstanding the mediation process, the parties will continue to perform their obligations described in this Agreement (except to the extent the performance is rendered unreasonable as a result of the pending or ongoing mediation) until such time as the mediation process is complete.
- (c) Subject to paragraph 12(a), if a party breaches this Agreement then the other party will have all available legal and equitable remedies.

13. Annual Meetings

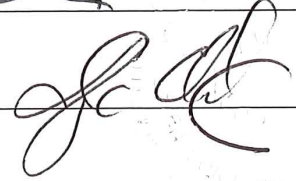
- (a) The parties agree to meet once per year during the Term to discuss and consider matters arising pursuant and related to this Agreement. The

annual meetings referred to herein shall occur no later than September 30th during each of year of the Term or such other date as is agreed upon by the parties from time to time.

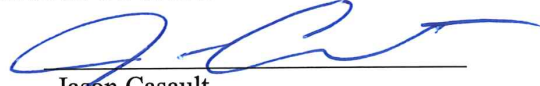
IN WITNESS WHEREOF the parties hereunto have hereunto executed this Agreement all effective as of the date and year first set forth above, notwithstanding the actual date or dates of execution hereof.

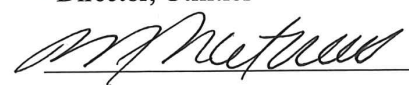
CAPITAL REGION NORTHEAST WATER SERVICES COMMISSION

Per:  _____

Per:  _____

STRATHCONA COUNTY

Per:  _____
Jason Casault
Director, Utilities

Per:  _____ APR 26 2023

Mavis Nathoo
Director, Legislative & Legal Services

Strathcona County APPROVED		
REQ'D	INITIAL	DATE
Director		
AC/Corp Serv Treasurer		
AC/IP Serv		
AC/Com Serv		
Chief Commissioner		
Finance		
Manager	JR	4/26/23

07H-UTL-1504

SCHEDULE "A"
Annual Quantity and Maximum Daily Quantity

1. Annual Quantity

- (a) Subject to section 2 of this Schedule, the County and the Commission agree that the Annual Quantity of Water for each of the following calendar years shall be the quantity set for opposite that year:

Year	Projected Volume
2023	250 ML
2024	255 ML
2025	260 ML
2026	265 ML
2027	270 ML
2028	280 ML
2029	290 ML
2030	300 ML
2031	310 ML
2032	320 ML
2033	330 ML
2034	340 ML
2035	350 ML
2036	360 ML
2037	370 ML
2038	380 ML
2039	390 ML
2040	400 ML
2041	410 ML
2042	420 ML

- (b) The Annual Quantity of Water for a calendar year may be adjusted by written agreement of the parties.

2. Maximum Daily Quantity

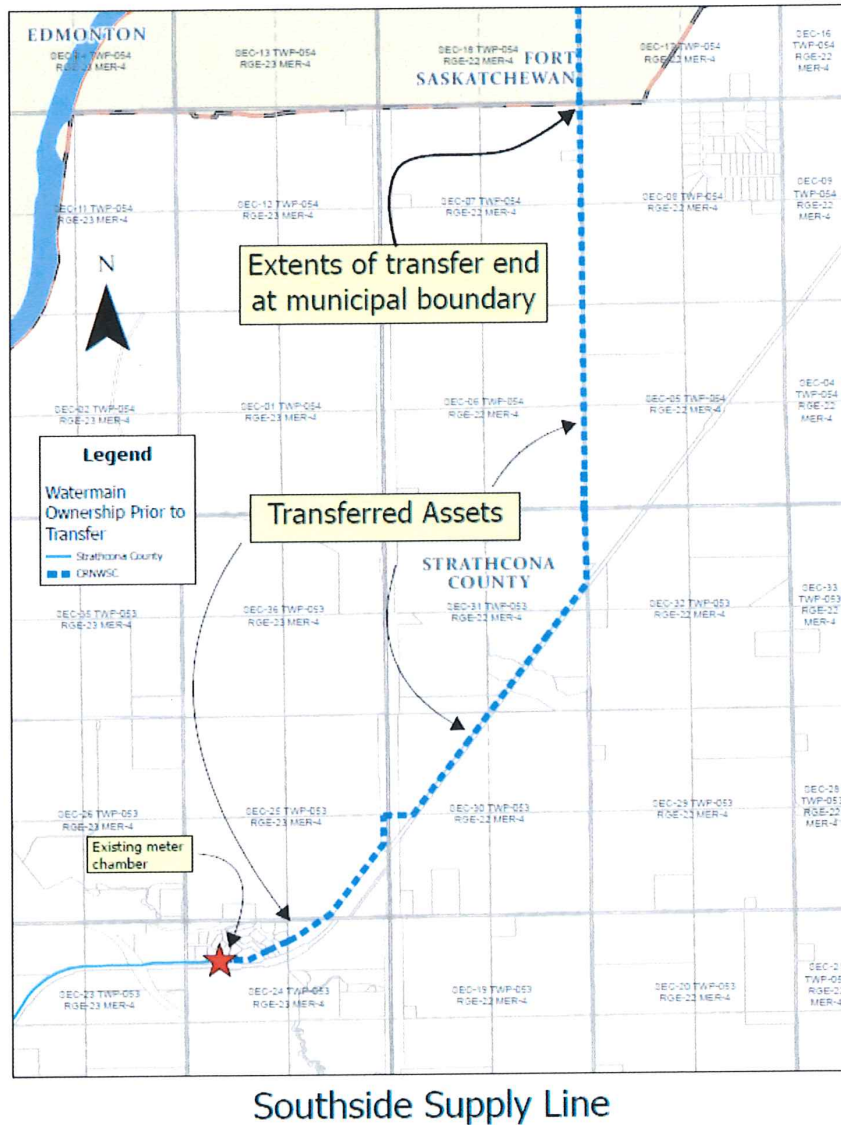
- (a) The Maximum Daily Quantity for each day shall be equal to the quantity (expressed in ML) determined as follows:

$$\text{Maximum Daily Quantity} = (\text{AQ}/365) \times 1.8$$

where AQ equals the Annual Quantity for the calendar year in which the Maximum Daily Quantity is being calculated.

SCHEDULE "B"
Point of Delivery and Existing Meter Chamber

1. The location of the Existing Meter Chamber and Point of Delivery as of the Effective Date of the Agreement is as follows:



2. The parties acknowledge and agree that upon completion of construction and installation of the New Meter Chamber, in accordance with Schedule "E" to the Agreement, the location of the Point of Delivery will be amended accordingly.

SCHEDULE "C"
Rate

1. The Rate payable prior to the reduction of the VCB to zero (\$0.00) dollars shall be ten (\$0.10) cents over and above the EPCOR Rate per cubic meter of Water.

2. Effective as of the reduction of the VCB to zero (\$0.00) dollars, the Rate shall be equal to the Strathcona County Utility Model Rate. The Strathcona County Utility Model Rate will be calculated on a cost of service basis utilizing the principles set out in the American Water Works Association manuals of practice dealing with water rates and charges, as revised from time to time, and in accordance with the findings and directives of the Alberta Utilities Commission.

SCHEDULE "D"
Dispute Resolution

The Commission and the County acknowledge that in any business relationship a difference of opinion or interpretation or a divergence of interest may arise. The Commission and the County are committed to resolving any disputes in a non-adversarial informal and cost-efficient manner. Therefore, the Commission and The County agree that:

1. They will attempt to resolve any dispute through direct negotiations.
2. Failing successful negotiation they will resort to mediation as follows:
 - a. Either party may be written notice to the other request the selection of a mediator whose qualifications are appropriate for the dispute to be mediated (the "Mediator");
 - b. Within seven (7) days of their selection, the Mediator will designate a time for a meeting among the Mediator and a representative of each of the Commission and the County. Each representative must have authority to agree to a resolution of the dispute;
 - c. For a forty five (45) day period of time from the written notice requesting the selection of a Mediator, neither the Commission nor the County will take any action or step or pursue any available remedy other than to use its Best Efforts to participate in the mediation process, however, either party may take such steps as are necessary to preserve any remedies available to such party;
 - d. The cost and expense of the Mediator and the mediation process will be paid for equally by the Commission and the County;
 - e. The mediation process, including all discussions, proposals and written materials made or prepared, will be strictly confidential and cannot be used or referred to in any subsequent action, step or proceedings;
 - f. The Mediator cannot be called by either party as a witness in any subsequent action, step, or proceedings;
 - g. After the expiry of the 45-day period referred to in section 2(c), either party may pursue such remedies that it determines necessary, in its sole discretion.
3. In the event that a Mediator is not agreed upon and appointed by the parties, or in the event that the Mediator is unable to resolve the dispute or disagreement as contemplated above, either party may refer the matter to be resolved by:

- a. AUC – review and decision by the Alberta Utilities Commission, in respect of any disputes or disagreement that falls within the jurisdiction or authorities of the Alberta Utilities Commission; and
- b. Arbitration – review and decision by an arbitrator, in respect of any disputes or disagreement that falls outside the jurisdiction or authorities of the Alberta Utilities Commission;

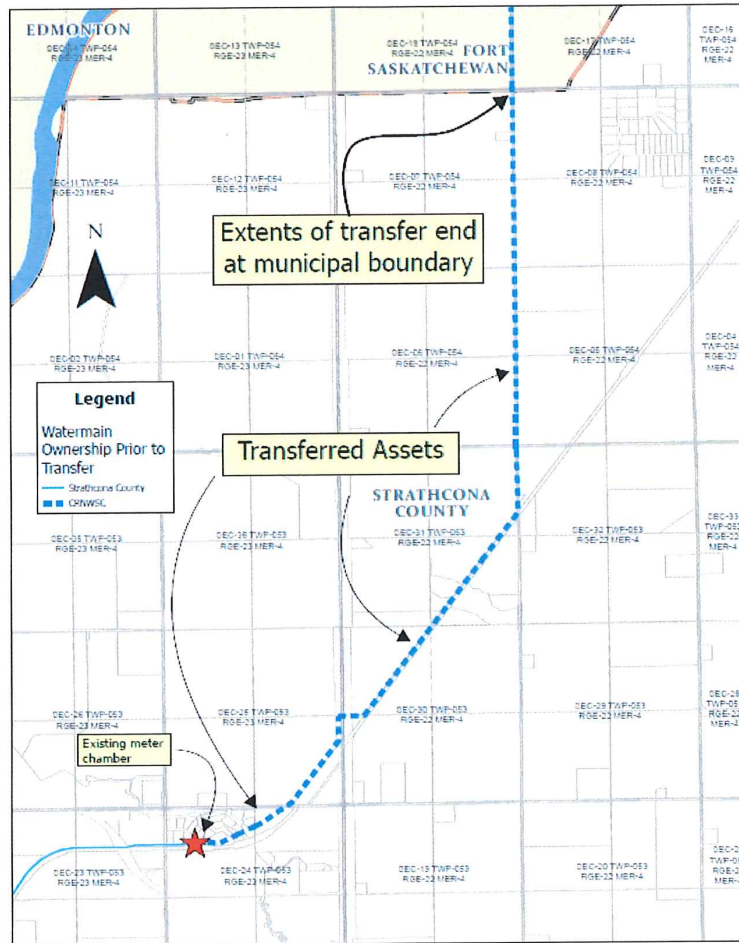
in each case by delivering written notice to the other party to that effect. Referral to the Alberta Utilities Commission shall follow the procedures of the Alberta Utilities Commission, as established or amended from time to time. Arbitration hereunder shall be by a reference to an independent person to be selected jointly by the parties, and their decision shall be final and binding. In the event that the parties shall fail to agree on an arbitrator within 7 days of either parties' arbitration notice pursuant to the above, then an arbitrator shall be selected in accordance with the practice and procedures of the Alberta Arbitration and Mediation Society. Failing the selection of the arbitrator within 14 days of either parties' arbitration notice above, the provisions of the *Arbitration Act*, RSA 2000, c. A-43, as amended or replaced from time to time, shall apply and an application shall be made to a Justice of the Court of King's Bench of Alberta to select the arbitrator.

SCHEDULE "E"
Transfer of Assets and Transitional Matters

1. Transfer of Assets

(a) For the purposes of this Schedule "E" and the Agreement, the "Assets" means and shall include:

(i) a portion of the waterline known as the Southside Supply Line approximately 8.3 kilometres in length as shown below:



Southside Supply Line

(ii) all test leads required for cathodic protection of the waterline described in subsection (i) herein;

- (iii) all utility rights of ways, easements, caveats or other encumbrances of any nature whatsoever registered against lands over which the Assets are located, including but not limited to:

TITLE NO.	LINC	LEGAL	QS	SEC	TWP	RNG	MER	INSTRUMENT NO.
022 265 509	18157751	4;22;53;31;NE	NE	31	53	22	4	802302234
102 323 477	27426394	9821354;3;3	NW	24	53	23	4	802302236; 142126332
122 217 892	17228610	4356RS;1;8	NW	24	53	23	4	802302236
142 125 063	14563648	5114TR;1;1	NE	24	53	23	4	7265RK
162 188 675	27426402	9821354;3;4	NW	24	53	23	4	802302236; 142126332
172 075 906	30943294	4356RS;2;9	NW	24	53	23	4	802302236
172 179 110	30943302	0520927;2;9A	NW	24	53	23	4	802302236
182 282 526	27426386	9821354;3;2	NW	24	53	23	4	802302236; 142126332
182 303 579	16371882	4;23;53;25;SE	SE	25	53	23	4	802302232
192 029 305 +2	38213690	1923RS;;A	NE	23	53	23	4	802242233; 142126332
192 029 305 +3	38213708	5134RS;;B	NE	23	53	23	4	
212 115 092	32921181	0740648;1;1	W	23	53	23	4	802238037; 142126331; 802238039
222 038 355	34531336	4;23;53;23;NW	NW	23	53	23	4	802238039; 142126331
982 091 769 +9	27426452	9821354;3;10ER	NW	24	53	23	4	802302236; 142126332
992 029 214	26967786	4;22;53;30;SW	SW	30	53	22	4	812022573; 862036180

- (iv) for those lands over which the Assets are located and for which the Commission has an ownership interest, all of the Commission's ownership interest in such lands, including but not limited to:

TITLE NO.	LINC	LEGAL	QS	SEC	TWP	RNG	MER
862 032 618	19651975	2619RS;RW;53	NE	30	53	22	4

- (v) the Existing Meter Chamber (Southside Meter Vault).
- (b) In partial consideration of the transfer of the Assets by the Commission to the County, the County hereby waives and releases the Commission from any and all claims arising from the County's application of the Volume Consumption Benefit to the Rate payable by the Commission to the County pursuant to the Water

Supply Agreement between the parties dated May 3, 2004, in accordance with the terms and conditions of that Agreement, and any and all underpayment and amounts owing by the Commission to the County with respect to same (the “2004 VCB Settlement”) For the purposes of this paragraph 1(b), Volume Consumption Benefit shall have the meaning given to it in the Water Supply Agreement dated May 3, 2004.

- (c) In consideration of the 2004 VCB Settlement, the application of the Volume Consumption Benefit as set out in the Agreement, and of the mutual covenants and agreements herein contained, the receipt and sufficiency of such consideration being hereby acknowledged by the Commission, the Commission hereby transfers the Assets to the County and assigns, transfers, conveys and sets over to County the entire right, title, estate and interest of the Commission in and to the Assets for the County to have and to hold absolutely, together with all benefit and advantage to be derived therefrom.
- (d) The Commission hereby represents and warrants to the County and acknowledges that the County is relying upon such representations and warranties, as follows:
 - (i) that the Commission is now rightfully and absolutely possessed of and entitled to the Assets hereby assigned and to each and every part of them;
 - (ii) that the Commission now has in Itself good right to assign the Assets unto the County in the manner aforesaid and according to the true intent and meaning of this Agreement;
 - (iii) that the Assets are free and clear of all charges and encumbrances of whatever nature and kind whatsoever; and
 - (iv) that the County shall and may from time to time, and at all times hereafter, peaceably and quietly have, hold, possess and enjoy the Assets hereby assigned, and all and every part of them, to and for its own use and benefit without any manner of hindrance, interruption, molestation, claim or demand whatsoever of, from or by the Commission.

2. Construction and Installation of New Meter Chamber

- (a) The County shall construct and install a new meter chamber and meter, in close proximity to the boundary between Strathcona County and the City of Fort Saskatchewan (the “New Meter Chamber”) no later than five (5) years from the Effective Date of this Agreement. The location of the New Meter Chamber shall be determined by the County, acting in good faith and in consultation with the Commission.
- (b) The parties acknowledge and agree that pending the construction and installation of the New Meter Chamber by the County the County shall be responsible for

metering the Water delivered to the Commission at the Point of Delivery. For further clarity:

- (i) between the Effective Date of the Agreement and the date upon which construction and installation of the New Meter Chamber is complete and the New Meter Chamber becomes operational (the “Transition Date”) the County shall be responsible for metering the Water delivered to the Commission at the existing Point of Delivery and testing the Meter for accuracy in accordance with the requirements of paragraph 6(c) of the Agreement; the County will adjust the Commission invoice by reducing the billed volume by the total of the metered connections within Strathcona County up to the Fort Saskatchewan border;
- (i) the Meter in the New Meter Chamber will become the Point of Delivery as of the Transition Date;
- (ii) the County will continue to be responsible for metering the Water delivered to the Commission at the new Point of Delivery and testing the Meter for accuracy in accordance with the requirements of paragraph 6(c) of the Agreement; and
- (iii) the Commission may, at its option, test the Meter for accuracy in accordance with paragraph 6(d) of the Agreement. The County will provide reasonable access to the Existing Meter Chamber for the purposes set out herein.

3. Cathodic Protection

The County will be responsible for maintaining the cathodic protection of the system currently servicing the Assets as of the Effective Date of the Agreement. The Commission agrees to pay its proportionate share, based on % of protected linear meters, of the costs relating to such maintenance.

4. Water Quality

The County is responsible for water quality in the Assets. Notwithstanding the aforementioned, the Commission will consider, when practicable, water age and/or quality when purchasing water, so that residual disinfectant levels remain effective and above regulated requirements.

5. Valve Operation

The remote-controlled butterfly valve at the Existing Meter Chamber will continue to be operated by the Commission, with due consideration of County residents that are downstream of the Existing Meter Chamber, until the New Meter Chamber is placed into service. Once the New Meter Chamber is operational, the Commission will no longer have access to, nor will it have the right or ability to operate equipment within, the Existing Meter Chamber.

SCHEDULE "F"
Supply of Water for Emergency Services

1. The parties acknowledge and agree that as of the Transition Date, as defined in Schedule "E" to the Agreement, there will be an interconnection between the respective parties' water supply systems which enables the Commission to supply water to the County at the New Meter Chamber (the "Interconnection"). The Commission is the owner of, and shall be solely responsible for maintenance, repair and replacement of, the Interconnection.
2. The Commission represents and warrants that once the Interconnection is constructed, the Commission will at all times maintain, repair and replace the Interconnection, such that in the event the County requests water for maintenance purposes or emergency supply (either directly or through an entity supply such services on the County's behalf) ("Maintenance or Emergency Services Purposes") the Commission would be able provide what flow it is able to.
3. The County acknowledges and agrees that the Interconnection is intended for use solely for Maintenance or Emergency Services Purposes. The Interconnection is not intended as a permanent supplemental water source for the County.
4. The County may from time to time request that the Commission supply water at the Interconnection for Emergency Services Purposes. In the event of a request from the County pursuant to this provision, the Commission shall make reasonable efforts to supply water to the County for Emergency Services Purposes.
5. The County shall pay the Commission for all water supplied by the Commission to the County through the Interconnection pursuant to this Schedule "F" at a rate equal to the rate established by the Commission for commercial bulk water customers from time to time.
6. The Commission shall have no liability to the County whatsoever for any damage, loss, cost or expense resulting from, arising out of or associated with the Commission's supply, or inability to supply, water to the County for Emergency Services Purposes pursuant to this Schedule "F".