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**LOAN AGREEMENT**

Between

**THE KANSAS STATE TREASURER,  
ACTING ON BEHALF OF  
THE STATE OF KANSAS**

and

**THE CITY OF LYONS, KANSAS**

**EFFECTIVE AS OF MARCH 22, 2021**

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# LOAN AGREEMENT

## Table of Contents

Recitals.....	1
<b>ARTICLE I DEFINITIONS</b>	
Section 1.01. Definitions.....	1
Section 1.02. Rules of Interpretation .....	3
<b>ARTICLE II LOAN TERMS</b>	
Section 2.01. Amount of the Loan.....	3
Section 2.02. Interest Rate.....	3
Section 2.03. Disbursement of Loan Proceeds .....	3
Section 2.04. Repayment of the Loan.....	4
<b>ARTICLE III REPRESENTATIONS AND COVENANTS OF BORROWER</b>	
Section 3.01. Representations of the Borrower .....	4
Section 3.02. Particular Covenants of the Borrower .....	6
<b>ARTICLE IV ASSIGNMENT</b>	
Section 4.01. Assignment by the Borrower .....	8
<b>ARTICLE V DEFAULT AND REMEDIES</b>	
Section 5.01. Notice of Default.....	8
Section 5.02. Remedies on Default.....	8
Section 5.03. Expenses.....	8
Section 5.04. Application of Moneys .....	8
Section 5.05. No Remedy Exclusive; Waiver; Notice .....	9
Section 5.06. Retention of Rights .....	9
Section 5.07. Financial and Management.....	9
<b>ARTICLE VI MISCELLANEOUS</b>	
Section 6.01. Notices.....	9
Section 6.02. Binding Effect .....	10
Section 6.03. Severability.....	10
Section 6.04. Amendments, Supplements and Modifications .....	10
Section 6.05. Execution in Counterparts .....	10
Section 6.06. Governing Law .....	10
Section 6.07. Electronic Transactions.....	10
Section 6.08. Further Assurances.....	10
Section 6.09. State of Kansas Contractual Provisions Attachment.....	10
Signatures.....	11
<b>Exhibit A -</b> Loan Repayment Schedule	
<b>Exhibit B -</b> Payment Dates and Amounts for Extraordinary Costs	
<b>Exhibit C -</b> Form of Borrower’s Counsel Opinion	
<b>Exhibit D -</b> State of Kansas Contractual Provisions Attachment (DA Form 146a)	

**CITY UTILITY LOW-INTEREST LOAN PROGRAM  
LOAN AGREEMENT**

**THIS LOAN AGREEMENT**, effective as of March 22, 2021, by and between the **KANSAS STATE TREASURER**, acting on behalf of **THE STATE OF KANSAS**, and **THE CITY OF LYONS, KANSAS**, a “City” as defined in the Act, hereinafter referenced as the “Borrower.”

**WITNESSETH:**

**WHEREAS**, the Act authorizes the Treasurer to establish a low-interest loan program to provide assistance to cities for extraordinary electric or natural gas costs incurred during the extreme weather event of February 2021; and

**WHEREAS**, the Borrower has made timely application to the Treasurer for the Loan to finance all or a portion of the Extraordinary Costs which application satisfies the requirements of the Act; and

**WHEREAS**, the Treasurer has approved the Borrower’s application for the Loan, subject to the availability of moneys in the Fund.

**NOW, THEREFORE**, for and in consideration of the Loan, the Borrower agrees to satisfy the conditions, covenants and procedures set forth in this Loan Agreement, as follows:

**ARTICLE I  
DEFINITIONS**

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

“**Act**” means the Constitution and laws of the State of Kansas, including particularly the terms of House Substitute for Senate Bill No. 88 and Senate Bill No. 86, Session of 2021.

“**Authorized Borrower Representative**” means any person authorized pursuant to a resolution of the governing body of the Borrower to perform any act or execute any document relating to the Loan, or this Loan Agreement.

“**Authorizing Ordinance**” means an ordinance adopted by the governing body of the Borrower authorizing the execution of this Loan Agreement, substantially in the form attached to the application of the Borrower for the Loan.

“**Borrower**” means the City of Lyons, Kansas, its successors and assigns.

“**Borrower’s Counsel Opinion**” means an opinion of legal counsel to the Borrower in substantially the form set forth as **Exhibit C** attached hereto.

“**City**” means any city organized and existing under the laws of Kansas.

“**Dedicated Source of Revenue**” shall mean the revenues of the System and other legally available funds as further set forth in **Section 3.02(a)**.

**“Event of Default”** means any occurrence of the following events:

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

(b) failure by the Borrower to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement, except as specified in paragraph (a) above, which failure shall continue for a period of thirty (30) days after written notice specifying such failure is given to the Borrower by the Treasurer, unless the Treasurer shall agree in writing to an extension of such time prior to its expiration; *provided, however*, if the failure stated in such notice is correctable but cannot be corrected within the applicable period the Treasurer may not unreasonably withhold its consent to an extension of such time up to ninety (90) days from the delivery of the written notice referred to above if corrective action is instituted by the Borrower within the applicable period and diligently pursued until such failure by the Borrower to observe and perform any duty, covenant, obligation or agreement on its part to be observed or performed under this Loan Agreement is corrected;

(c) any representation made by or on behalf of the Borrower contained in this Loan Agreement, or in any instrument furnished in compliance with or with reference to this Loan Agreement or the Loan, is false or misleading in any material respect;

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

(e) the Borrower shall generally fail to pay its debts as such debts become due.

**“Extraordinary Costs”** means all extraordinary electric or natural gas costs incurred by the City during the extreme weather event of February 2021.

**“Fiscal Year”** means the twelve-month period ending on December 31 of each year, or such other twelve-month period that shall constitute the fiscal year of the Borrower.

**“GAAP”** means generally accepted accounting principles as applicable to governmental units.

**“Indebtedness”** means any financial obligation of the Borrower evidenced by an instrument executed by the Borrower, including this Loan, bonds, notes, leases, lease-purchase agreements or similar financial transactions.

**“Loan”** means the loan made by the Treasurer to the Borrower to finance or refinance all or a portion of the Extraordinary Costs pursuant to this Loan Agreement.

**“Loan Agreement”** means this Loan Agreement, including the Exhibits attached hereto and documents incorporated herein by reference, as supplemented, modified or amended from time to time in accordance with the terms hereof.

**“Loan Rate”** means the interest rate per annum equal to the market rate as provided in K.S.A. 75-4237, and amendments thereto, less 2%. The market rate shall be recalculated on the first business day of January of each year using the market rate then in effect. Notwithstanding the foregoing, the minimum interest rate shall be 0.25% if the market rate is below 2.25%.

**“Loan Repayments”** means the payments payable by the Borrower pursuant to **Section 2.04** of this Loan Agreement.

**“Loan Repayment Schedules”** means the scheduled payments on the Loan set forth on **Exhibit A** attached hereto and incorporated herein by reference.

**“State”** means the State of Kansas, acting, unless otherwise specifically indicated, by and through the Treasurer, and its successors and assigns.

**“System”** means the electric and/or natural gas utility system of the Borrower, as the same may be modified or enlarged from time to time, for which the Borrower is making the borrowing under this Loan Agreement.

**“System Revenues”** means all revenues derived by the Borrower from the ownership and operation of the System.

**“Treasurer”** means the Kansas State Treasurer, or its successors in interest.

### **Section 1.02. Rules of Interpretation**

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing persons shall include firms, associations and corporations, including public bodies, as well as natural persons.

(c) All references in this Loan Agreement to designated “Articles,” “Sections” and other subdivisions are, unless otherwise specified, to the designated Articles, Sections and subdivisions of this Loan Agreement as originally executed. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Loan Agreement as a whole and not to any particular Article, Section or other subdivision.

(d) The Table of Contents and the Article and Section headings of this Loan Agreement shall not be treated as a part of this Loan Agreement or as affecting the true meaning of the provisions hereof.

## **ARTICLE II LOAN TERMS**

**Section 2.01. Amount of the Loan.** Subject to all of the terms, provisions and conditions of this Loan Agreement, and subject to the availability of funds, the Treasurer hereby agrees to loan an amount not to exceed \$3,000,000.00 to the Borrower to pay all or a portion of the Extraordinary Costs. The Borrower shall be responsible for any Extraordinary Costs incurred by the Borrower in excess of the amount of the Loan.

**Section 2.02. Interest Rate.** The Loan shall bear interest at the Loan Rate (computed on the basis of a 360-day year of twelve 30-day months), based on the unpaid principal balance as set forth in the Loan Repayment Schedule.

**Section 2.03. Disbursement of Loan Proceeds.** The Treasurer agrees to disburse the proceeds of the Loan to pay Extraordinary Costs. Requests for disbursement shall be (or have been) submitted to the

Treasurer by the Borrower in a single lump sum. Any request for disbursement must be (or has been) supported by proper invoices, and any future requests for disbursement must include a certificate of the Authorized Borrower Representative to the effect that all representations made in this Loan Agreement remain true as of the date of the request.

#### **Section 2.04. Repayment of the Loan.**

(a) **Loan Repayments.** The Borrower shall pay to the Treasurer installments of principal and interest on the Loan in accordance with **Exhibit A** attached hereto, until the Loan has been paid in full. With respect to each installment, the Borrower shall (1) remit sufficient moneys for the loan payment to the Treasurer at least 20 days before the loan payment is due or (2) transfer sufficient moneys for the loan payment to the Treasurer electronically no later than 12:00 pm (noon) of the first business day before the loan payment is due, so long as the Borrower provides the Treasurer with electronic fund transfer instructions on forms prescribed by the Treasurer at least 20 days before the loan payment is due that certify that there will be funds on deposit on the first business day before the loan payment is due in an amount sufficient for the loan payment and that such funds will be received by the Treasurer no later than 12:00 p.m. (noon) on such date.

A new **Exhibit A** will be prepared by the Treasurer no later than January 31 of each year based on the Loan Rate as recalculated on the first business day of January of such year, reamortizing the remaining principal amount over the remaining term of the Loan to effect level debt service based on the new Loan Rate. Installments of principal and interest on the Loan shall be paid in accordance with the Loan Repayment Schedule on **Exhibit A** as in effect at any time under this Loan Agreement. Notwithstanding any other provision of this Loan Agreement, the first payment of principal and interest due on the Loan shall be made on July 1, 2021. The final installment of principal under the Loan shall be fully repaid on or before March 22, 2031.

(b) **Prepayment of the Loan.** The Borrower may prepay the outstanding principal of the Loan, in whole, or in part, at any time, without penalty, upon 15 days prior written notice to the Treasurer. A new **Exhibit A** will be prepared by the Treasurer following receipt of any acceptable partial prepayment, reamortizing the remaining principal amount over the remaining term of the Loan.

### **ARTICLE III**

#### **REPRESENTATIONS AND COVENANTS OF BORROWER**

**Section 3.01. Representations of the Borrower.** The Borrower makes the following representations:

(a) **Organization and Authority.**

(1) The Borrower is a City duly created and validly existing under and pursuant to the constitution and statutes of the State;

(2) The Borrower has full legal right and authority and all necessary licenses and permits required as of the date hereof to own, operate and maintain the System, to carry on its activities relating thereto, to execute and deliver this Loan Agreement, and to carry out and consummate all transactions contemplated by this Loan Agreement;

(3) The Authorizing Ordinance and other proceedings of the Borrower's governing body approving this Loan Agreement and authorizing its execution, issuance and delivery on behalf of the Borrower, and authorizing the Borrower to pay the Extraordinary Costs, have been duly and lawfully adopted;

(4) The Borrower has incurred Extraordinary Costs equal to or in excess of the principal amount of the Loan;

(5) This Loan Agreement has been duly authorized, executed and delivered on behalf of the Borrower, and, constitutes the legal, valid and binding obligation of the Borrower enforceable in accordance with its terms.

(b) **Non-Litigation.** There is no controversy, suit or other proceeding of any kind pending or threatened wherein or whereby any question is raised or may be raised, questioning, disputing or affecting in any way: (1) the legal organization of the Borrower; (2) its boundaries; (3) the right or title of any of its officers to their respective offices; (4) the legality of any official act taken in connection with obtaining the Loan; (5) the constitutionality or validity of the indebtedness represented by the Loan Agreement; (6) any of the proceedings had in relation to the authorization or execution of this Loan Agreement; (7) the collection of System Revenues; or (8) the ability of the Borrower to make all Loan Repayments or otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

(c) **Compliance with Existing Laws and Agreements.** To the best knowledge of the Borrower, the authorization, execution and delivery of this Loan Agreement by the Borrower, and the performance by the Borrower of its duties, covenants, obligations and agreements thereunder will not result in any breach of any existing law or agreement to which the Borrower is a party.

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

(e) **Compliance with Law.** The Borrower has, to the best of the Authorized Borrower's Representative's knowledge:

(1) complied with all laws, ordinances, resolutions, governmental rules and regulations to which it is subject, whether or not contained in the Act, the failure to comply with which would materially adversely affect the ability of the Borrower to enter into this Loan Agreement; and

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

(f) **Use of Loan Proceeds.** The Borrower shall apply the proceeds of the Loan: (1) to finance Extraordinary Costs; and (2) where applicable, to reimburse the Borrower for a portion of the Extraordinary Costs which were paid or incurred by the Borrower in anticipation of reimbursement pursuant to the Act.

(g) **Extraordinary Costs.** The Borrower certifies that the Extraordinary Costs specified in **Exhibit B** are reasonable and accurate. Upon direction of the Treasurer, the Borrower agrees to deliver to the Treasurer invoices, payment certifications and any other documentation reasonably requested by the Treasurer in order to determine that the Loan proceeds were used to pay Extraordinary Costs.

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

(a) ***Dedicated Source of Revenue for Repayment of the Loan.***

(1) If the Borrower receives any federal monies related to the Extraordinary Costs, the first priority for expenditure of such amounts (or any similar amounts received by the State for the benefit of the Borrower) will be the payment of any outstanding balance of the Loan. If the Borrower receives any recoveries as a result of settlement or litigation or other refunds of Extraordinary Costs paid by the Borrower, such amounts (or any similar amounts received by the State for the benefit of the Borrower) will be used to pay any outstanding balance of the Loan.

(2) The Borrower shall impose and collect such rates, fees and charges for the use and services furnished by or through the System, including all improvements and additions thereto hereafter constructed or acquired by the Borrower, as will provide System Revenues in amounts that are sufficient to (a) pay the cost of the operation and maintenance of the System, (b) pay the principal of and interest on the Loan as and when the same become due, and (c) pay all other obligations of the Borrower payable from or secured by a pledge of or lien upon the System Revenues; provided, however, no lien or other security interest on the System Revenues is granted by the Borrower to the Treasurer under this Loan Agreement.

(3) In the event that the System Revenues are insufficient to meet the obligations under the Loan and the Loan Agreement, the principal of and interest on the Loan shall be payable from any other legally available funds of the Borrower.

(b) ***Performance Under Loan Agreement.*** The Borrower covenants and agrees in the performance of its obligations under this Loan Agreement:

(1) to comply with all applicable State and federal laws, rules and regulations that are applicable to this Loan Agreement; and

(2) to cooperate with the Treasurer in the observance and performance of the respective duties, covenants, obligations and agreements of the Borrower and the Treasurer under this Loan Agreement.

(c) ***Delivery of Documents.*** Concurrently with the delivery of this Loan Agreement and the closing of the Loan, the Borrower will cause to be delivered to the Treasurer:

(1) copies of the Authorizing Ordinance, certified by an Authorized Borrower Representative, and if applicable, an affidavit of publication thereof in the official newspaper of the Borrower;

(2) a Borrower's Counsel Opinion; and

(3) such other certificates, documents, opinions and information as the Treasurer may reasonably require.

(d) ***Operation and Maintenance of the System.*** The Borrower covenants and agrees that it shall, in accordance with prudent utility practice:



(1) at all times operate the properties of the System in an efficient manner in accordance with applicable laws and regulations;

(2) maintain the System, making all necessary and proper repairs, renewals, replacements, additions, betterments and improvements necessary to maintain the System in good repair, working order and operating condition;

(3) implement any modification of the rates, fees and charges for use of the System that comprise the Dedicated Source of Revenues as the Treasurer may require to ensure repayment of the Loan in accordance with the provisions of the Loan Act; and

(4) take such other action as the Treasurer may require in accordance with powers granted to the Treasurer under the Act.

(e) **Disposition of System.** The Borrower shall not sell, lease or otherwise transfer ownership of all or substantially all of the System without the consent of the Treasurer. The provisions of this paragraph shall not be construed to prohibit the lease of portions of the System by the Borrower in connection with a lease-purchase transaction to finance improvements to the System; provided that a termination or an event of default by the Borrower under such arrangement shall not have a material adverse effect on the Borrower's Dedicated Source of Revenues.

(f) **Financial Information.** The Borrower shall keep accurate records and accounts for the System, separate and distinct from its other records and accounts. The Borrower shall keep accurate records and accounts of its financial affairs prepared in accordance with GAAP, unless the Borrower has obtained a waiver in accordance with State law. Such records and accounts shall be audited annually by an independent certified public accountant or firm of independent certified public accountants, in accordance with generally accepted auditing standards. A copy of the Borrower's annual audit, including all written comments and recommendations of such accountant, shall be furnished to the Treasurer within 210 days of the close of the Fiscal Year being so audited.

(h) **Documentation.** The Borrower shall permit the Treasurer and any party designated by the Treasurer to examine and inspect and make copies of any accounts, books and records, receipts, disbursements, contracts, investments and any other matters relating to the Extraordinary Costs and to the Borrower's financial standing, including the records related to the System and general accounts, and shall supply such reports and information as the Treasurer may reasonably require in connection therewith.

(i) **Insurance.** The Borrower will carry and maintain such reasonable amount of all-risk insurance on all properties and all operations of the System as would be carried by municipal operators of similar utility systems, insofar as the properties and operations are of an insurable nature. The Borrower also will carry general liability insurance in an amount not less than the maximum liability of a governmental entity for claims arising out of a single occurrence, as provided by the Kansas Tort Claims Act, K.S.A. 75-6101 *et seq.*, or other similar future law (currently \$500,000 per occurrence).

(j) **Notice of Material Adverse Change.** The Borrower shall promptly notify the Treasurer of any material adverse change in the activities, prospects or condition (financial or otherwise) of the Borrower, or in the ability of the Borrower to make all Loan Repayments and otherwise observe and perform its duties, covenants, obligations and agreements under this Loan Agreement.

## ARTICLE IV ASSIGNMENT

**Section 4.01. Assignment by the Borrower.** This Loan Agreement may not be assigned by the Borrower for any reason, unless the following conditions shall be satisfied:

- (a) the Treasurer shall have approved said assignment in writing;
- (b) the assignee is a city organized and existing under the laws of the State of Kansas;
- (c) the assignee shall have expressly assumed in writing the full and faithful observance and performance of the Borrower's duties, covenants, and obligations under this Loan Agreement; *provided, however,* such assignment shall not relieve the Borrower of its duties, covenants, and obligations under this Loan Agreement; and
- (d) the Borrower shall, at its expense, provide the Treasurer and the Authority with an opinion of counsel that each of the conditions set forth in *subparagraphs (b) and (c)* hereof have been met.

## ARTICLE V DEFAULT AND REMEDIES

**Section 5.01. Notice of Default.** If an Event of Default shall have occurred and be continuing, the Treasurer shall give the Borrower prompt telephonic notice of the Event of Default. Such telephonic notice shall be immediately followed by written notice of such Event of Default given in the manner set forth in **Section 6.01** hereof.

**Section 5.02. Remedies on Default.** Whenever an Event of Default shall have occurred and be continuing, the Treasurer shall have the right to take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and to become due or to enforce the performance and observance of any obligation or agreement of the Borrower, including, without limitation, withholding Loan disbursements, cancellation of the Loan Agreement and acceleration of the remaining scheduled principal payments set forth on **Exhibit A**, or such other remedies provided to the Treasurer in the Act.

**Section 5.03. Expenses.** Upon the occurrence of an Event of Default on the part of the Borrower, and to the extent permitted by law, the Borrower shall, on demand, pay to the Treasurer the reasonable fees and expenses incurred by the Treasurer in the collection of Loan Repayments or any other sum due hereunder or in the enforcement of performance or observation of any other duties, covenants, obligations or agreements of the Borrower contained herein. Prior to incurring any such expenses, the Treasurer shall provide written notice to the Borrower that it intends to incur such expenses; *provided, however,* a failure by the Treasurer to give such notice shall not affect the Treasurer's right to receive payment for such expenses. Upon request by the Borrower, the Treasurer shall provide copies of statements evidencing the fees and expenses for which the Treasurer is requesting payment.

**Section 5.04. Application of Moneys.** Any moneys collected by the Treasurer pursuant to **Section 5.02** hereof shall be applied: (a) first, to pay interest on the Loan as it becomes due and payable; (b) second, to pay principal due and payable on the Loan; (c) third, to pay expenses owed by the Borrower pursuant to **Section 5.03** hereof; and (d) fourth, to pay any other amounts due and payable hereunder as such amounts become due and payable.

**Section 5.05. No Remedy Exclusive; Waiver; Notice.** No remedy herein conferred upon or reserved to the Treasurer is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Loan Agreement or now or hereafter existing at law or in equity. The Treasurer, in good faith, shall exercise such remedies with due diligence in a timely manner, however, no delay or omission to exercise any right, remedy or power accruing upon any Event of Default shall impair any such right, remedy or power or shall be construed to be a waiver thereof, but any such right, remedy or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Treasurer to exercise any remedy reserved to it in this **Article V**, it shall not be necessary to give any notice, other than such notice as may be required in this **Article V**.

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

**Section 5.07. Financial and Management.** Upon failure of the Borrower to pay one or more installments of the Loan Repayments in a timely manner, or in the event that the Treasurer deems it advisable or necessary, the Treasurer, after consultation with the governing body of the Borrower, may require the Borrower to undergo a financial and management operations review. The governing body shall correct any deficiencies noted during such review and adopt charges or surcharges as may be required by the Treasurer during the term of this Loan Agreement.

## ARTICLE VI MISCELLANEOUS

**Section 6.01. Notices.** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when: (a) hand delivered; (b) mailed by registered or certified United States mail, postage prepaid; (c) delivered by prepaid overnight delivery service; or (d) transmitted by electronic mail, with the original delivered by prepaid overnight delivery service, to the parties hereinafter set forth at the following addresses:

- (1) to the Treasurer:

Kansas State Treasurer  
900 SW Jackson Street, #201  
Topeka, Kansas 66612  
Attention: State Treasurer  
E-mail: [fiscal@treasurer.ks.gov](mailto:fiscal@treasurer.ks.gov)

with a copy to its General Counsel at the same address

- (2) to the Borrower:

City of Lyons, Kansas  
P O Box 808  
Lyons, Kansas 67554  
Attention: City Clerk  
E-mail: [cityadmin@lyonsks.org](mailto:cityadmin@lyonsks.org)

All notices given by registered or certified mail or overnight delivery service as aforesaid shall be deemed duly given as of the date they are deposited with the applicable carrier. All notices given by electronic mail as aforesaid shall be deemed given as of the date of evidence of receipt thereof by the recipient. Any of the foregoing parties may designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent, by notice in writing given to the others.

**Section 6.02. Binding Effect.** This Loan Agreement shall inure to the benefit of and shall be binding upon the Treasurer and the Borrower and their respective successors and assigns.

**Section 6.03. Severability.** In the event any provision of this Loan Agreement shall be held illegal, invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate, render unenforceable or otherwise affect any other provision hereof.

**Section 6.04. Amendments, Supplements and Modifications.** This Loan Agreement may not be amended, supplemented or modified without the prior written consent of the parties and the Authority.

**Section 6.05. Execution in Counterparts.** This Loan Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

**Section 6.06. Governing Law.** This Loan Agreement shall be governed by and construed in accordance with the laws of the State, including the Act, which Act is, by this reference thereto, incorporated herein as a part of this Loan Agreement.

**Section 6.07. Electronic Transactions.** The transaction described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**Section 6.08. Further Assurances.** The Borrower shall, at the request of the Treasurer, authorize, execute, acknowledge and deliver such further resolutions, conveyances, transfers, assurances, financing statements and other instruments as may be reasonably necessary or desirable for better assuring, conveying, granting, assigning and confirming the rights and agreements granted or intended to be granted by this Loan Agreement.

**Section 6.09. State of Kansas Contractual Provisions Attachment .** The provisions found in the State of Kansas Contractual Provisions Attachment (DA Form 146a) attached hereto as **Exhibit D** are hereby incorporated in this Loan Agreement and made a part hereof.

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**IN WITNESS WHEREOF**, the Treasurer and the Borrower have caused this Loan Agreement to be executed, sealed and delivered, effective as of effective date set forth above.

**KANSAS STATE TREASURER,**  
acting on behalf of THE STATE OF KANSAS,  
as “Treasurer”

[Seal]

By: \_\_\_\_\_  
Treasurer

**THE CITY OF LYONS, KANSAS,**  
as “Borrower”

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

[Seal]

ATTEST:

By: \_\_\_\_\_  
City Clerk

**EXHIBIT A**

**LOAN REPAYMENT SCHEDULE**

No.	Rate	Payment Date	Beginning Balance	Payment	Principal	Interest	Ending Balance
1	0.25%	07/01/2021	\$ 3,000,000.00	\$ 77,893.29	\$ 75,830.79	\$ 2,062.50	\$ 2,924,169.21
2	0.25%	10/01/2021	\$ 2,924,169.21	\$ 77,893.29	\$ 76,065.68	\$ 1,827.61	\$ 2,848,103.53
3	0.25%	01/01/2022	\$ 2,848,103.53	\$ 77,893.29	\$ 76,113.23	\$ 1,780.06	\$ 2,771,990.30
4	0.25%	04/01/2022	\$ 2,771,990.30	\$ 77,893.29	\$ 76,160.80	\$ 1,732.49	\$ 2,695,829.50
5	0.25%	07/01/2022	\$ 2,695,829.50	\$ 77,893.29	\$ 76,208.40	\$ 1,684.89	\$ 2,619,621.10
6	0.25%	10/01/2022	\$ 2,619,621.10	\$ 77,893.29	\$ 76,256.03	\$ 1,637.26	\$ 2,543,365.07
7	0.25%	01/01/2023	\$ 2,543,365.07	\$ 77,893.29	\$ 76,303.69	\$ 1,589.60	\$ 2,467,061.38
8	0.25%	04/01/2023	\$ 2,467,061.38	\$ 77,893.29	\$ 76,351.38	\$ 1,541.91	\$ 2,390,710.00
9	0.25%	07/01/2023	\$ 2,390,710.00	\$ 77,893.29	\$ 76,399.10	\$ 1,494.19	\$ 2,314,310.90
10	0.25%	10/01/2023	\$ 2,314,310.90	\$ 77,893.29	\$ 76,446.85	\$ 1,446.44	\$ 2,237,864.05
11	0.25%	01/01/2024	\$ 2,237,864.05	\$ 77,893.29	\$ 76,494.62	\$ 1,398.67	\$ 2,161,369.43
12	0.25%	04/01/2024	\$ 2,161,369.43	\$ 77,893.29	\$ 76,542.43	\$ 1,350.86	\$ 2,084,827.00
13	0.25%	07/01/2024	\$ 2,084,827.00	\$ 77,893.29	\$ 76,590.27	\$ 1,303.02	\$ 2,008,236.73
14	0.25%	10/01/2024	\$ 2,008,236.73	\$ 77,893.29	\$ 76,638.14	\$ 1,255.15	\$ 1,931,598.59
15	0.25%	01/01/2025	\$ 1,931,598.59	\$ 77,893.29	\$ 76,686.04	\$ 1,207.25	\$ 1,854,912.55
16	0.25%	04/01/2025	\$ 1,854,912.55	\$ 77,893.29	\$ 76,733.97	\$ 1,159.32	\$ 1,778,178.58
17	0.25%	07/01/2025	\$ 1,778,178.58	\$ 77,893.29	\$ 76,781.93	\$ 1,111.36	\$ 1,701,396.65
18	0.25%	10/01/2025	\$ 1,701,396.65	\$ 77,893.29	\$ 76,829.92	\$ 1,063.37	\$ 1,624,566.73
19	0.25%	01/01/2026	\$ 1,624,566.73	\$ 77,893.29	\$ 76,877.94	\$ 1,015.35	\$ 1,547,688.79
20	0.25%	04/01/2026	\$ 1,547,688.79	\$ 77,893.29	\$ 76,925.98	\$ 967.31	\$ 1,470,762.81
21	0.25%	07/01/2026	\$ 1,470,762.81	\$ 77,893.29	\$ 76,974.06	\$ 919.23	\$ 1,393,788.75
22	0.25%	10/01/2026	\$ 1,393,788.75	\$ 77,893.29	\$ 77,022.17	\$ 871.12	\$ 1,316,766.58
23	0.25%	01/01/2027	\$ 1,316,766.58	\$ 77,893.29	\$ 77,070.31	\$ 822.98	\$ 1,239,696.27
24	0.25%	04/01/2027	\$ 1,239,696.27	\$ 77,893.29	\$ 77,118.48	\$ 774.81	\$ 1,162,577.79
25	0.25%	07/01/2027	\$ 1,162,577.79	\$ 77,893.29	\$ 77,166.68	\$ 726.61	\$ 1,085,411.11
26	0.25%	10/01/2027	\$ 1,085,411.11	\$ 77,893.29	\$ 77,214.91	\$ 678.38	\$ 1,008,196.20
27	0.25%	01/01/2028	\$ 1,008,196.20	\$ 77,893.29	\$ 77,263.17	\$ 630.12	\$ 930,933.03
28	0.25%	04/01/2028	\$ 930,933.03	\$ 77,893.29	\$ 77,311.46	\$ 581.83	\$ 853,621.57
29	0.25%	07/01/2028	\$ 853,621.57	\$ 77,893.29	\$ 77,359.78	\$ 533.51	\$ 776,261.79
30	0.25%	10/01/2028	\$ 776,261.79	\$ 77,893.29	\$ 77,408.13	\$ 485.16	\$ 698,853.66
31	0.25%	01/01/2029	\$ 698,853.66	\$ 77,893.29	\$ 77,456.51	\$ 436.78	\$ 621,397.15
32	0.25%	04/01/2029	\$ 621,397.15	\$ 77,893.29	\$ 77,504.92	\$ 388.37	\$ 543,892.23
33	0.25%	07/01/2029	\$ 543,892.23	\$ 77,893.29	\$ 77,553.36	\$ 339.93	\$ 466,338.87
34	0.25%	10/01/2029	\$ 466,338.87	\$ 77,893.29	\$ 77,601.83	\$ 291.46	\$ 388,737.04
35	0.25%	01/01/2030	\$ 388,737.04	\$ 77,893.29	\$ 77,650.33	\$ 242.96	\$ 311,086.71
36	0.25%	04/01/2030	\$ 311,086.71	\$ 77,893.29	\$ 77,698.86	\$ 194.43	\$ 233,387.85
37	0.25%	07/01/2030	\$ 233,387.85	\$ 77,893.29	\$ 77,747.42	\$ 145.87	\$ 155,640.43
38	0.25%	10/01/2030	\$ 155,640.43	\$ 77,893.29	\$ 77,796.01	\$ 97.28	\$ 77,844.42
39	0.25%	01/01/2031	\$ 77,844.42	\$ 77,893.07	\$ 77,844.42	\$ 48.65	\$ -
<b>Totals:</b>				<b>\$ 3,037,838.09</b>	<b>\$ 3,000,000.00</b>	<b>\$ 37,838.09</b>	

**EXHIBIT B**

**PAYMENT DATES AND AMOUNTS FOR EXTRAORDINARY COSTS**

Vendor: ..... Kansas Municipal Gas Agency

Due Date: .....03/24/2021

Total Amount Due: .....\$3,152,002.33

## EXHIBIT C

### FORM OF BORROWER'S COUNSEL OPINION

[Date]

Kansas State Treasurer  
Topeka, Kansas

Re: Loan Agreement effective as of March 22, 2021, between the Kansas State Treasurer (“Treasurer”), acting on behalf of the State of Kansas (the “State”), and the City of Lyons, Kansas (the “City”)

I have acted as counsel to the City in connection with the authorization, execution and delivery of the above-referenced Loan Agreement (the “Loan Agreement”). In my capacity as counsel to the City, I have examined original or certified copies of minutes, resolutions and ordinances of the City and other documents relating to the authorization of the Extraordinary Costs and the authorization, execution and delivery of the Loan Agreement, and the establishment of a Dedicated Source of Revenue for repayment of the Loan evidenced by the Loan Agreement. Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned thereto in the Loan Agreement.

In this connection, I have examined the following:

- (a) an executed or certified copy of the Loan Agreement;
- (b) proceedings adopted or taken by the City to authorize and approve the Extraordinary Costs to be paid or reimbursed with the proceeds of the Loan evidenced by the Loan Agreement;
- (c) Ordinance No. 1990 of the City (the “Ordinance”) adopted on March 10, 2021, and other proceedings of the City taken and adopted in connection with the authorization, execution and delivery of the Loan Agreement, and the establishment of a Dedicated Source of Revenue for repayment of the Loan evidenced by the Loan Agreement; and
- (d) such other proceedings, documents and instruments as I have deemed necessary or appropriate to the rendering of the opinions expressed herein.

In this connection, I have reviewed such documents, and have made such investigations of law, as deemed relevant and necessary as the basis for the opinions hereinafter expressed.

Based upon the foregoing, it is my opinion, as of the date hereof, that:

1. The City is a municipal corporation duly created, organized and existing under the laws of the State.
2. The City operates the System.
3. Payment of the Extraordinary Costs has been duly authorized by the City.



4. The City has all requisite legal power and authority to, and has been duly authorized under the terms and provisions of the Ordinance to execute, deliver and perform its obligations under the Loan Agreement.
5. The Loan Agreement has been duly authorized, executed and delivered by the Borrower and constitutes a valid and binding agreement of the Borrower enforceable in accordance with its terms, subject as to enforcement of remedies to any applicable bankruptcy, reorganization, insolvency, moratorium or other similar laws affecting creditors' rights heretofore or hereafter enacted, and subject further to the exercise of judicial discretion in accordance with general principles of equity. In rendering this opinion I have assumed due authorization, execution and delivery of the Loan Agreement by the State, acting by and through the Treasurer.
6. The City has duly authorized the Dedicated Source of Revenue for repayment of the Loan to be made pursuant to the Loan Agreement.
7. To the best of my knowledge, the execution and delivery of the Loan Agreement by the City will not conflict with or result in a breach of any of the terms of, or constitute a default under, any ordinance, indenture, mortgage, deed of trust, lease or other agreement or instrument to which the City is a party or by which it or any of its property is bound or any of the rules or regulations applicable to the City or its property or of any court or other governmental body.

Very truly yours,

## EXHIBIT D

### STATE OF KANSAS CONTRACTUAL PROVISIONS ATTACHMENT (DA FORM 146A)

State of Kansas  
Department of Administration  
DA-146a (Rev. 1-01)

#### CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

“The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof”

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being dated March 22, 2021.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.  
  
Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss of damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."