

EMPLOYMENT AGREEMENT

This Employment Agreement is entered into on this ___ day of February, 2024, by and between the Board of Trustees of the Municipal Electric, Gas, Water, and Communications Utilities of the City of Cedar Falls (hereinafter “Employer”), and Susan M. Abernathy (hereinafter “Employee”).

WITNESSETH:

WHEREAS, Employer desires to employ Employee as its Assistant General Manager effective February 15, 2024, and as its General Manager thereafter, effective upon the retirement of the current General Manager, and Employee desires to accept such employment; and

WHEREAS, Employer and Employee desire to enter into a written Employment Agreement on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and of the covenants and agreements contained herein, the parties hereto agree as follows:

1. Employment. Employer hereby agrees to employ Employee as its Assistant General Manager effective February 15, 2024, and as its General Manager thereafter, effective upon the retirement of the current General Manager, and Employee hereby accepts such employment, upon the terms and conditions set forth herein.

2. Term. The term of Employee’s employment hereunder as Assistant General Manager and then as General Manager shall be for a term commencing February 15, 2024, and continuing through December 31, 2026.

3. Duties. During the term of Employee’s employment as Assistant General Manager, Employee shall work under the direction of the General Manager, assisting the General Manager in carrying out the duties and responsibilities of the General Manager. It is intended by Employer that this period shall be a time of transition as Employee prepares to assume the responsibilities of the General Manager. Upon assuming the position of General Manager, Employee shall have the duty and responsibility to direct the principal work activities of the Utilities, performing the duties and responsibilities outlined in the Position Description attached hereto, marked Exhibit “A”, and incorporated herein by reference. Employee shall be subject to all policies of Employer pertaining to the General Manager, as well as those policies which apply to all employees. Employee shall have such additional duties and responsibilities as shall be assigned to Employee from time to time by Employer. The duties of Employee hereunder are subject to change as determined from time to time by Employer in order that the talents of Employee may be fully utilized by Employer in the event of changing circumstances.

During the period of employment hereunder, Employee shall devote Employee’s full time, attention, energy, skill, and best efforts to the promotion of the business and affairs of Employer and shall perform faithfully and to the fullest extent of Employee’s ability all duties

which relate to Employee's position as General Manager of Employer. Employee shall not, during the term of this Agreement, engage in any other business activity which would in any way compromise Employee's efforts on behalf of Employer.

4. Compensation. For all services rendered by Employee under the terms of this Agreement, Employer shall pay, and Employee shall receive, as base compensation, an initial salary in the amount of Two Hundred Twenty Thousand Dollars (\$220,000.00), beginning at the commencement of the term of this Agreement and payable in accordance with the established pay periods of Employer. At such time as the Employee assumes the duties of General Manager, Employer shall pay, and Employee shall receive, as base compensation, a salary in the amount of Two Hundred Thirty Thousand Dollars (\$230,000.00), payable in accordance with the established pay periods of Employer. Thereafter, Employer shall review Employee's salary on an annual basis at the time of the annual performance appraisals provided for in this Agreement. In considering adjustments to Employee's salary, Employer shall be guided, but not bound, by the criteria and guidelines utilized to determine adjustments in compensation for other management employees of Employer.

5. Benefits. During the term of Employee's employment hereunder, Employee shall be entitled to participate in and to receive the following employee benefits:

- (a) Paid vacation accruing at the rate of 16.67 hours per month during the term of this Agreement. Earned vacation time may be accrued up to two times Employee's annual total accrual. Once the maximum allowable accrual has been reached, all earned vacation exceeding this amount will be forfeited. As a general rule, Employee shall take no more than two (2) consecutive weeks of vacation. However, with the consent of the Chair of the Board of Trustees, Employee shall be allowed to take more than two consecutive weeks of vacation.
- (b) Other established benefit programs of Employer, including health and disability insurance, and IPERS.

6. Expense Reimbursement. Employee shall be entitled to reimbursement of all expenses properly and reasonably incurred on behalf of, or in furtherance of, the business of Employer, including travel, reimbursement for travel in the course of Employer's business outside the metropolitan area, meals, and lodging expenses. Employee shall submit an itemized accounting to Employer of all such expenses with any substantiation which may be required by Employer. Included in the expenses to be reimbursed on behalf of Employee are the dues for membership in a service club of Employee's choice to facilitate building and maintaining an excellent presence in the community and staying involved in the community.

7. Continuing Education. Employer recognizes the importance of continuing Employee's educational growth in the business of the Utilities. Employee is expected to attend professional meetings, seminars, and institutes which will assist Employee in Employee's professional development and in carrying out the specific responsibilities of Employee's position as General Manager. Employee will be permitted to be absent during working days to attend such professional meetings, seminars, and institutes. Attendance at such meetings shall be fully

compensated service time and shall not be considered vacation time. Employer shall reimburse Employee for expenses incurred by Employee incident to attendance at such professional meetings, seminars, and institutes as per Employer policy.

8. Confidentiality. Employee acknowledges that Employee may, in the course of or incident to employment hereunder, obtain from Employer proprietary confidential business information of the Utilities (hereinafter “Restricted Information”), which term shall include all proprietary information that is not known by, or generally available to, competitor utilities or entities, and that concerns the business affairs of Employer (including, without limitation, marketing plans, pricing information, prospective and executed contracts, identity of customers, costs, and business plans). Employee acknowledges that the confidentiality of such Restricted Information is necessary to Employer’s ability to compete with its competitors. Employee agrees that:

- (a) During the term of Employee’s employment hereunder, and at all times thereafter, Employee will hold all and each portion of the Restricted Information in the strictest confidence, and not disclose, communicate, or divulge the same to any person or entity, except as required in the performance of Employee’s duties hereunder or as required by law; and
- (b) Upon termination of Employee’s employment hereunder for any reason whatever, Employee will immediately return to the company all documents or other tangible records, and any and all copies thereof, within Employee’s possession, containing or reflecting any information concerning the Restricted Information or any portion thereof.

9. Annual Performance Appraisal. As provided above, during the term of this Agreement Employee’s performance shall be evaluated by Employer at least semi-annually in accordance with Employer’s policies and practices, with the first such review to occur in July of 2024. Employee’s performance shall be evaluated based on the duties of Employee’s position, the overall performance of the Cedar Falls Utilities, and other criteria established by Employer and communicated to Employee.

10. Termination.

- (a) Death. This Agreement shall immediately terminate upon the death of Employee, in which event Employer shall not thereafter be obligated to make any further payments hereunder other than amounts accrued as of the date of Employee’s death and amounts payable to Employee under the various benefit plans in which Employee is participating.
- (b) On Notice by Employer. Employer may, in its discretion, terminate this Agreement during the term provided for herein without a showing of proper cause. Such action shall require a majority vote of the Board of Trustees and shall become effective upon written notice to Employee or at such later time as may be specified in said notice. After such termination, all rights, duties, and obligations of both parties shall cease except that Employer shall

continue to pay Employee's salary for the month during which Employee's duties were terminated and for six (6) consecutive months thereafter as an agreed upon severance payment upon receipt of a signed Release from Employee.

- (c) Termination for Cause. This Agreement may be terminated immediately for cause by Employer, in which event Employer shall not be obligated to make any further payments hereunder other than amounts accrued as of the date of termination. After such termination, all rights, duties, and obligations of the parties shall cease. "Cause" shall include, but not be limited to, the following, to be determined in the sole judgment of the Board of Trustees of Employer, reasonably exercised:
 - (i) Employee's fraud, misappropriation, dishonesty, or other willful misconduct;
 - (ii) Employee's conviction of a felony;
 - (iii) Any act or acts of Employee which constitute grounds for termination of the employment of a salaried employee under Employer's policies;
 - (iv) Employee's failure or refusal to faithfully or diligently perform the provisions of this Agreement, provided that Employer shall be obligated to give Employee at least thirty (30) days prior notice of such violation, and no breach shall be deemed to have occurred hereunder if Employee cures the same within such thirty (30) day period, or, if the same cannot reasonably be cured with thirty (30) days, if within such period Employee commences such cure and proceeds diligently thereafter to accomplish the same.
- (d) On Notice by Employee. This Employment Agreement may be terminated by Employee upon giving ninety (90) days written notice to Employer. Employee may be required to work to the date of termination, and Employer shall not thereafter be obligated to make any further payments hereunder other than salary and amounts accrued to the date of termination.
- (e) End of Term or Mutual Agreement. Either party shall have the right to terminate this Employment Agreement without cause at the end of the term of this Agreement or as mutually agreed to between the parties.

11. Residency Requirement. Pursuant to Resolution No. 6560, the Board of Trustees requires its General Manager to reside within the then-existing geographical service area of at least one of the municipal utilities. Employee agrees to proceed diligently to comply with the policy and reside within a geographical service area. In order to account for current market conditions, Employer agrees to afford Employee up to two years to comply with the residency requirement.

12. Entire Agreement. This writing represents the entire agreement and

understanding of the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings of the parties in connection therewith; it may not be altered or amended except by an agreement in writing and signed by both parties hereto.

13. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors, and assigns. If any provision of this Agreement shall be or become illegal or unenforceable, in a whole or in part for any reason whatsoever, the remaining provisions shall nevertheless be deemed valid and binding.

14. Assignment. Neither this Employment Agreement nor any rights hereunder may be assigned by Employee without the consent in writing of Employer.

15. Waiver of Breach. The waiver by either party of a breach of any provision of this Agreement by the other party shall not operate or be construed as a waiver of any subsequent breach or violation thereof.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa.

IN WITNESS WHEREOF, this Employment Agreement has been executed by Employer and Employee on the date first above written.

EMPLOYEE

Susan M. Abernathy

Date Executed: _____

EMPLOYER

Board of Trustees of the Municipal
Electric, Gas, Water, and Communications
Utilities of the City of Cedar Falls

By: _____
Richard L. McAlister, Chair

Date Executed: _____

By: _____
MaraBeth K. Soneson, Secretary

Date Executed: _____