RESOLUTION APPROVING THE MEMORANDUM OF UNDERSTANDING WITH METROPOLITAN UTILITIES DISTRICT FOR THE STORAGE OF DISTRICT ASSETS

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104(6), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103, the powers of the County as a body are exercised by the County Board; and,

WHEREAS, Sarpy County desires to sign the Memorandum of Understanding (MOU) with the Metropolitan Utilities District (MUD) for the temporary storage of District Assets on Sarpy County Property, a copy of said MOU is attached hereto and incorporated herein; and,

WHEREAS, allowing MUD to temporarily store District Assets on Sarpy County Property will ensure that the District will be able to continue providing essential services.

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT this Board hereby approves the attached MOU and the Chairman of such Board is hereby authorized to sign such MOU, and any other related documents, the same being approved by the Board.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the _______ day of ________, 2018.

Attest

Sarpy County Board Chairman

County Clerk
MEMO

September 25, 2018

TO: Sarpy County Board of Commissioners

FROM: Scott Bovick, Deputy County Administrator

RE: Memorandum of Understanding (MOU) with Metropolitan Utilities District (MUD)

On Tuesday, September 25, the County Board will be asked to approve a Memorandum of Understanding (MOU) between Sarpy County and the Metropolitan Utilities District (MUD). In order to ensure it can continue to provide essential services, MUD desires to partner with Sarpy County and the Storm Chasers for the purpose of temporarily storing District vehicles and other assets at Werner Park in the event there is flooding in the metro area.

Please contact me at 593-1568 if you have any questions. Thank you.

Scott Bovick
Deputy County Administrator

Cc: Deb Houghtaling, Dan Hoins, Bonnie Moore, Brian Hanson, Martie Cordaro (Omaha Storm Chasers), Joseph Kehm (MUD), Lynn Marshall
MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (this "MOU") is entered into as of the 25th day of September, 2018 (the "Effective Date") by and between METROPOLITAN UTILITIES DISTRICT OF OMAHA, NEBRASKA, a municipal corporation and political subdivision of the State of Nebraska (the "District") and SARPY COUNTY, NEBRASKA, a body politic and corporate ("Sarpy County").

RECITALS

a. The District provides essential services, including potable water and natural gas, to customers in and around the city of Omaha, Douglas County, Nebraska;

b. Sarpy County owns a parcel of land consisting of 30.791 acres, more or less, and legally described as Lot 1, Scheuwe Farms, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska (the "Property");

c. The Property, commonly known as Werner Park, is located at address 12356 Ballpark Way, Papillion, Nebraska, 68046 and features a baseball stadium and parking lots;

d. The District possesses a variety of vehicles and materials (collectively, "District Assets") that are stored on the District's properties in and around the City of Omaha;

e. District Assets are critical to the District providing essential services, including potable water and natural gas, to customers in and around the city of Omaha, Douglas County, Nebraska;

f. To ensure the District will be able to continue providing essential services, the District desires to enter into an agreement with Sarpy County permitting the District to temporarily store District Assets on the parking lots located on the Property in the event such District Assets are put at risk by flood waters;

g. To ensure the District will be able to continue providing essential services, Sarpy County agrees to enter into an agreement with the District permitting the District to temporarily store District Assets on the parking lots located on the Property in the event such District Assets are put at risk by flood waters;

NOW THEREFORE, in consideration of the above Recitals and mutual promises and covenants herein contained, and other good and valuable consideration, the receipt, sufficiency and adequacy of which are expressly acknowledged, the Parties set forth their mutual understanding and agreement as follows:
AGREEMENT

1. **Agreement to Store District Assets.** If, in the judgment of the District, District Assets are at risk of damage because of actual or imminent flooding, the District may temporarily store such District Assets on the Property until the flood risk has abated at no cost to the District, provided that the District gives notice to Sarpy County or designee at least six hours in advance of the District moving any District Assets onto the Property. Such Notice by the District to Sarpy County or designee shall specify the type and number of District Assets that the District intends to temporarily store on the Property. All District Assets stored on the Property shall be removed by the District as soon as reasonably practicable after the threat posed by actual or imminent flooding has abated.

2. **Storage Location of District Assets.** Sarpy County or designee shall have sole and absolute discretion to determine where on the Property District Assets will be temporarily stored.

3. **Consideration.** Sarpy County enters into this MOU and Agreement in consideration of payment by the District of the sum of $1.00, the receipt and sufficiency of which is hereby acknowledged by Alliance.

4. **Notices.** All notices must be in English, in writing, and addressed to the other party’s primary contact, as follows:

   To the District:
   
   Steve Ausdemore  
   Senior Vice President, Safety, Security, and Field Operations  
   MUD Operations Center  
   3100 S. 61st Ave.  
   Omaha, NE 68106  
   402-504-7653  
   steve_ausdemore@mudnebr.com  

   To Sarpy County:
   
   Dan Hoins  
   County Administrator  
   1210 Golden Gate Drive, Suite 1250  
   Papillion, NE 68046  
   402-593-2347  
   dhoins@sarpy.com  

   To Sarpy County’s designee for purposes of Sections 1 and 2 of this Agreement:
   
   Martie Cordaro  
   President and General Manager of the Omaha Storm Chasers  
   Werner Park  
   12356 Ballpark Way  
   Papillion, NE 68046  
   402-738-5108  
   MartieC@omahastormchasers.com
All notices given via phone must also be given in writing. Notice can be by email and will be treated as given on receipt, as verified by written or automated receipt or by electronic log (as applicable).

5. **Term.** This MOU shall remain in effect so long as Sarpy County, or its successors and/or assigns, possesses and/or controls the Property, whether as tenant, owner, or in any other capacity. In the event that Sarpy County’s rights and/or duties are assigned, Sarpy County agrees to require its assignee to take assignment of Sarpy County’s rights and duties under this MOU.

6. **Entire Agreement.** This MOU constitutes the entire agreement of the parties regarding the matters addressed herein.

7. **Further Assurances.** The District and Sarpy County agree to use good faith and commercially reasonable efforts to do all things and take all actions required after the date hereof to further consummate and effectuate the purpose of this MOU.

8. **Governing Law.** This MOU shall be governed in all respects by the laws of the State of Nebraska.

9. **Counterparts; Electronic Signatures.** For purposes of determining the enforceability of this MOU, facsimile signatures shall be deemed originals, and this MOU may be executed in any number of counterparts. This MOU may be executed by the use of electronic signatures.

10. **No Third Party Beneficiaries.** This MOU shall not confer any rights or remedies upon any entity or person other than the District and Sarpy County and their respective successors and permitted assigns.

IN WITNESS WHEREOF, the District and Sarpy County have caused this MOU to be executed as of the Effective Date.

**METROPOLITAN UTILITIES DISTRICT OF OMAHA, NEBRASKA**

By: [Signature]
Name: Mark Doyle
Title: President

**SARPY COUNTY, NEBRASKA**

By: [Signature]
Name: Don Kelly
Title: Chairman, Sarpy County Board

**Approved as to form:***
Mark A. Mendenhall, General Counsel

**Approved as to Form:***
Deputy County Attorney