

## WATER LINE CROSSING AGREEMENT

This WATER LINE CROSSING AGREEMENT (“Agreement”) is made effective this \_\_\_ day of \_\_\_\_\_, 2023 by and between Navigator Heartland Greenway, LLC, a (“Crossing Party”) and [SDARWS MEMBER], (“Water System”). Crossing Party and Water System may collectively be referred to as “Parties”.

**WHEREAS**, Crossing Party intends to acquire certain easement and/or right-of-way rights in South Dakota for the purposes of constructing a pipeline, together with all other equipment and appurtenances necessary, for the transportation of carbon dioxide;

**WHEREAS**, Water System is a rural utility providing water and related services to communities in South Dakota;

**WHEREAS**, the proposed route of Crossing Party’s pipeline in South Dakota is such that it will cross or impact Water System’s water line or water lines (hereinafter the “Water Line”) at certain points in which Water System holds easements as set forth in attached Exhibit A (hereinafter “Water System Easements”) for its Water Line;

**WHEREAS**, the Parties desire to assess any potential impacts and resolve or mitigate such impacts to Water System Water Line as outlined herein; and

**WHEREAS**, Crossing Party desires to obtain from Water System permission to cross Water Systems Easements and Water System is willing to provide such permission provided the terms and conditions of this crossing agreement are satisfied.

**NOW THEREFORE**, the Parties hereby agree as follows:

1. Water System agrees to permit the crossings specified in attached Exhibit B provided the terms and conditions of this crossing agreement are met by Crossing Party. The permission granted to Crossing Party by Water System hereunder shall be revocable in the event of the noncompliance with any of the terms or conditions of this Agreement and the failure by Crossing Party to correct such noncompliance with thirty (30) days of written notice given to Crossing Party.
2. Crossing Party will work with Water System to assess and minimize the potential impacts to the Water System’s Water Line crossed by Crossing Party’s proposed pipeline and identified in Exhibit B. If it is reasonably determined by Water System that the construction or operation of the Crossing Party’s pipeline will negatively impact the Water Line, Crossing Party will work with Water System to reach a mutually acceptable solution to avoid and/or minimize any impact caused by the Crossing Party’s pipeline.
3. Crossing Party agrees it shall not place any structure or part of a structure within the easement of Water System. Crossing Party shall provide all final crossing details to Water System, in writing, for review and comment at least ninety (90) days prior to any proposed construction activity. Crossing details shall include, but not be limited to the following:



- (a) name of lead Crossing Party contact;
- (b) name of Crossing Party contact person at construction site;
- (c) address and telephone numbers of both (a) and (b);
- (d) type of utility or construction activity;
- (e) physical relation of Crossing Party pipeline to the Water System Water Line and proposed separation distance;
- (f) vacuum excavate the Water System pipeline minimum of ninety (90) days before any work at the crossing to confirm elevation and location of Water System Water Line;
- (g) proposed construction methods and materials;
- (h) safety measures to be used to protect Water System Water Line;
- (i) contingency plan for any disruption of Water System Water Line service;
- (j) site restoration details; and
- (k) such other construction detail for the proposed Crossing Party pipeline such as pipe sizes, pipe wall thicknesses, coating descriptions, corrosion control methods, operating pressures, and related details as Water System may reasonably request.

Crossing Party may not enter the Water System's easement for any construction related activities until Water System has provided Crossing Party with its written consent, after having reviewed and approved all of the plans and crossing details provided by Crossing Party.

The Crossing Party may not cross the Water System pipeline unless the following requirements set forth herein are met.

[PLACEHOLDER FOR TECHNICAL SPECIFICATIONS]

- 4. All damage to Water System's Water Line pipeline, coating or lining shall be repaired to the satisfaction of Water System. All repairs shall be completed and approved by Water System before backfilling of the Water System Water Line is allowed.
- 5. To protect Water System's Water Line from external loading, Crossing Party shall perform an engineering analysis to determine the effects of any proposed equipment use. Such engineering analysis shall be provided to Water System, in writing, for review and comment at least ninety (90) days prior to any proposed construction activity. Mats, timber bridges or other protective materials deemed necessary by the engineering analysis, or as otherwise reasonably required by the Water System, shall be placed over the Water System's Water Line for the duration of any loading or construction traffic. Protective materials shall be purchased, placed and removed at no cost to Water System. The easement shall be restored to its original condition.

6. Crossing Party shall provide not less than two-week (14 calendar days) advance written notice to Water System or its representative of anticipated date of crossing to allow Water System time to schedule personnel for observation of work across its Water Line easement.
7. Crossing Party shall provide not less than 24 hour written notice to Water System or its representative to have an authorized Water System representative on-site during any work performed on or across the Water System Easements. Crossing Party shall obtain confirmation that Water System received 24-hour notice for notice to be considered valid. However, if Water System does not have a representative on site, is delayed for any reason, or does not come to the site at the appointed time, Crossing Party will not be delayed as long as Crossing Party provided the required 24 hour notice in to the utility or its representative and has confirmation that Water System received notice.
8. Except as authorized, in writing by Water System, no vibratory equipment of any nature shall be permitted within the Water System Water Line Easements.
9. Crossing Party agrees to reimburse Water System for any reasonable direct expenses it incurs as a result of this crossing including, but not limited to, outside party engineering and plan review, legal expenses, and all cathodic protection and isolation costs, both at time of construction and during life of the Crossing Party pipeline. Reimbursement will be made by the Crossing Party within thirty (30) days of Water System's submission of reimbursement requests. Any reimbursements will be subject to an Audit conducted by Crossing Party or its representatives within 24 months following any such reimbursement.
10. Crossing Party will conduct its construction installation by meeting typical industry standards, and following One-Call damage prevention guidelines. Crossing Party will provide all necessary surveying for the project. Crossing Party will provide Water System with existing survey data upon written request within five (5) business days of the request.
11. Crossing Party will provide Water System with not less than 24 hour advance written notice for any future activity near or around its Water Line because of maintenance or repairing to Crossing Party pipeline.
12. Crossing Party shall indemnify and defend Water System, and its successors and assigns, and its and their members, directors, officers, employees, and agents (herein the "Indemnified Parties") against, and hold the Indemnified Parties harmless from, all claims, actions, liabilities, damages, costs, and expenses, including but not limited to claims or legal actions for environmental damage or clean-up, arising out of or in connection with Crossing Party's presence and activities on Water System's Easements and the installation or operation of the Crossing Party's pipeline thereon.
13. This Agreement shall be interpreted according to the laws of the State of South Dakota.
14. This Agreement shall not be assigned, in whole or in part, by either Party without the prior written consent of the other Party. Specifically, but not by way of limitation, in the event either Party sells or otherwise transfers its rights in their pipeline or Water Line, as

applicable, it shall be a precondition to such consent that the new owner of the Water Line or pipeline, as applicable, shall assume all of the duties and obligations of the assignor arising hereunder.

15. If any portion of this Agreement is held invalid it shall have no effect upon the validity of the remaining portions of this Agreement.

All notices and written communications relating to this Agreement shall be forwarded to:

**Notices to Crossing Party:**

Navigator Heartland Greenway, LLC  
[ADDRESS]

With a copy to:

**Notices to [SDARWS WATER SYSTEM]:**

[WATER SYSTEM]  
[ADDRESS]

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed in multiple originals with the effective date as written above.

**[SDARWS MEMBER]**

**NAVIGATOR  
GREENWAY, LLC**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_