CITY OF GREENSBURG
REGULAR CITY COUNCIL MEETING
300 SOUTH MAIN GREENSBURG, KANSAS
MONDAY, APRIL 3, 2017
6:00 PM

A) CALL TO ORDER

B) PLEDGE OF ALLEGIANCE AND INVOCATION

C) ROLL CALL & APPROVAL OF THE AGENDA

D) CITIZEN COMMENTS
   All comments are limited to a maximum of three minutes for each speaker. In accordance with the Open Meetings Act, City Council
   members may not discuss or take action on any item that is not on the Agenda.

E) RECOGNITIONS, PROCLAMATIONS, AWARDS & NOMINATIONS
   1. Housing Authority
      a. Terry Mayhew (12/31/18)
   2. Planning Commission
      a. Pamela Reves (4/30/2019)
      b. Shawn Cannon (4/30/2019)

F) CONSENT AGENDA
   These items are routine and enacted by one motion. There will be no separate discussion of these items unless a Council
   member so requests. Any consent agenda item can be removed and placed on the agenda as an item of business.
   1. Approval of Minutes
      a. Regular Meeting – March 20, 2017
   2. Appropriation Ordinance
      a. Ordinance #1097

G) ITEMS OF BUSINESS
   1. Starlight Park Sidewalk
   2. Greenleaf Property Donation- 413 S. Main
   3. KPP Contract Review
   4. Call for Hearing – 903 N. Sycamore
   5. Fire Relief Discussion

H) CITY ATTORNEY’S REPORT

I) CITY ADMINISTRATOR’S REPORT

J) GOVERNING BODY COMMENTS

K) ADJOURNMENT

NOTICE: SUBJECT TO REVISIONS
It is possible that sometime between 5:30 and 6:00 pm immediately prior to this meeting, during breaks, and directly after the meeting, a majority of the Governing
Body may be present in the council chambers or lobby of City Hall. No one is excluded from these areas during those times.

To be placed on future agendas please contact City Administrator Kyler Ludwig at administrator@greensburgks.org or call City Offices at 620-723-2751.
Greensburg City Council
March 20, 2017
City Hall

A) CALL TO ORDER
Council President Haley Kern called the meeting to order at 5:30 p.m. on March 20, 2017.

B) PLEDGE OF ALLEGIANCE AND INVOCATION
The Pledge of Allegiance was said and the invocation given by Pastor Jeff Blackburn.

C) ROLL CALL & APPROVAL OF THE AGENDA
Mayor Bob Dixson was absent. Jungemann made a motion, seconded by Schaffer, to approve the agenda as presented. The motion passed 5-0.

D) CITIZEN COMMENTS
Kerri Ulrich and Shawn Cannon, Public Arts Committee (PAC), unveiled a maquette of the first sculpture to be placed at Starlight Park. The final product will be 12’x4’ and have a single light source in the middle. There will be some structural changes made, and some of the finer details had to be left off of the maquette. PAC has named this piece “The Beacon”. Unveiling will be during the 10th Anniversary activities.

E) CONSENT AGENDA
Christenson made a motion, seconded by Trummel, to approve the Consent Agenda as presented. Motion passed 5-0.

F) ITEMS OF BUSINESS
1. Insurance Bids – People’s Insurance
Jeanine Hassiepen, People’s Insurance, presented final quotes from EMC, OneBeacon, and Travelers. Hassiepen pointed out that the city’s bond is in addition to the insurance quote for approximately $300. The bond is generally handled through administrative approval. Hassiepen also reminded Council that EMC gives a fluctuating dividend check back each year. In 2016 the check was for $15,532. Traveler’s General liability limit is the same as EMC, but has a $0 deductible. The base quote price for all 3 companies was very close. After further discussion, Christenson made a motion to accept the quote from EMC. Schaffer seconded, and the motion passed 5-0.

2. First Quarter Transfers
City Administrator Kyler Ludwig provided a list of budgeted quarterly transfers for 2017 and requested approval to make the first quarter transfer. Ludwig stated that the transfer from electric to electric reserve is budgeted for up to $70,000 annually. The request for first quarter is only $12,500. The transfer from electric to general is budgeted for up to $200,000 annually. The request for first quarter is only $32,500. Ludwig would like to keep these transfers lower than their potential maximum until the funds can be reviewed at the end of the year. The sanitation reserve fund is very near its required balance and will cap before transfers reach their budgeted maximum. Trummel made a motion, seconded by Jungemann, to approve the transfers requested for the first quarter.
3. Conditional Building permit Discussion
In January Arrow Zanghi received a conditional building permit for his property at 903 N. Sycamore. Zanghi placed a structure that was under the abatement process in Mullinville onto the property, but he agreed that he would bring the home into compliance with codes quickly. The first deadline that Zanghi agreed to was that the house would be placed on a foundation by March 18th (60 days). That deadline was missed. During citizen comments on March 6th, Zanghi stated that he was injured on March 2nd and would not be able to complete the project in the agreed upon time. Ludwig explained that Staff feels that based on the progress Zanghi made in the first 6 weeks prior to his injury, he did not intend on meeting the project completion date of July 31, 2017. Staff recommended beginning the abatement process on the property, which would coincide with the time frame Zanghi was originally given to complete the exterior. A proposed abatement schedule was provided in the meeting packet. Beginning the process now would give Council the ability to proceed at that time with either removal or repair of the structure.

Jungemann asked if Zanghi was aware of the proposed abatement schedule. Ludwig confirmed that Zanghi would not be advised of an abatement schedule until Council has given Staff direction to move forward with a Resolution, calling for a formal hearing. Kern asked if the abatement process could be stopped at any time, if the work is completed. Ludwig agreed, but encouraged Council to move forward with the formal process, as they did with the Meadowlark House. Ludwig also confirmed that Zanghi had signed a list of the permit conditions prior to the permit being issued. Schaffer acknowledged Zanghi’s effort to communicate with Council on March 2nd. Kern believed that moving forward with the process would show that the Council is serious but willing to work with Zanghi.

It was the consensus of the Council to move forward with a formal abatement process. Staff was instructed to communicate the proposed schedule and encourage Zanghi to continue to update Council on his progress.

G) CITY ATTORNEY’S REPORT
City Attorney Gordon Stull reported that KPP had questions on the proposed resolution (see minutes of 3/6/17 meeting). Stull will have the document updated for the next Council meeting. KPP has received the LOI.

H) CITY ADMINISTRATOR’S REPORT
Ludwig discussed the following topics:
   Tree City USA: Staff has received the City’s 2016 Tree City USA distinction. This is the 9th consecutive year we have had that distinction.
   ACH Withdrawal Change: As a result of some changes at Greensburg State Bank, the automated withdrawal for utility payments will take place on April 12th instead of the 8th. This change will only impact this month’s withdrawal.
   Election Calendar: Three council positions are up for reelection this fall. The application to get on the ballot is due on Thursday, June 1, before noon. The State has changed the application fee from $5 to $20 or a petition of 14 registered voters in Greensburg. The primary (if needed) will be held on August 1st and the general election will be on November 7th.
   KPP Contract: The City has received a copy of the proposed KPP Power Purchase Contract. Council will review this along with a resolution regarding KPP at the April 3rd meeting. A representative from KPP will be at the April 17th meeting to help answer questions we may have about the contract.
   Community Clean-up Day: April 29th will be the community clean up day. Residents will be able to place large bulk items out at the curb for pick up.

I) GOVERNING BODY COMMENTS
There were no additional comments or questions from the Council.
J) EXECUTIVE SESSION
Stull requested executive session for attorney client privilege for 10 minutes. Trummel made a motion to go into executive session until 6:15 p.m. Jungemann seconded the motion and it passed 5-0. Council returned to open session at 6:15 p.m.

K) ADJOURNMENT
With nothing additional to come before the Council, Kern declared the meeting adjourned at 6:16 p.m.

___________________________________   ________________________________
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TO: Honorable Mayor and Council  
SUBJECT: Starlight Park - Sidewalk  
INITIATED BY: City Council  

Background:  
Council approved the art and agreed to pay for sidewalk within the Starlight Park on November 7, 2016.

Analysis:  
Staff requested a bid from Pueblo Concrete to complete the 114’x 8’ sidewalk. The bid came in at $5,016 for the work at the starlight park. The project sidewalk includes a small curve to align with the adjacent road. Based on the work load of Pueblo Concrete the work would be scheduled for late April.

This project is something that staff is capable of performing internally. The cost of concrete is estimated at approximately $1,300. Staff would need to buy additional equipment to complete to project, but the overall cost is estimated below the provided bid.

The bid from Pueblo Concrete also included an estimate for repairing the stairs next to the antique store. The cost of this project is $4,575.

Recommendations/Actions: It is recommended the City Council:
Discuss the proposals for sidewalk in Starlight Park.

Attachments: Exhibit A: Pueblo Concrete Bid.
Pueblo Concrete, LLC  
12491 39th Ave  
Haviland, KS 67059  

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<td>saw loading ramp off 10' back from steps and replace top and 5 steps on ramp</td>
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Deposit of 50% is required at time of site excavation, progress payments will be negotiated upon acceptance and balance upon completion

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TO: Mayor and City Council
SUBJECT: Land Bank Donation
PREPARED BY: City Administrator, Kyler Ludwig

Background:
On June 16, 2014 the City of Greensburg established a Land Bank to help aid in the development of properties within the City. Sue Greenleaf has approached the City interested in donating her property at 413 S. Main.

Analysis:
The Greenleaf property is located on the north side of the Kiowa County Senior Center. The property has a small basement that was used as a safe-room under the garage.

Staff previously had discussions with the Senior Center in which they said they would not be interested in the property.

Financial:
Any legal costs for the review of the property, and potentially the removal of the basement.

Recommendations/Actions: It is recommended the City Council:
Review the request and advise staff.

Attachments: Exhibit A: Property Map, Exhibit B: Property Pictures.
TO: Mayor and City Council  
SUBJECT: Power Purchase Contract Discussion  
INITIATED BY: Kyler Ludwig, City Administrator

Background:
Since December of 2016 Staff has been discussion with council about the proposed changes to the KPP Power Purchase Contract. A letter of intent was signed in March to move forward with the contract changes.

KPP Staff will be attending the April 17th meeting asking for approval of the new contract. The discussion today is intended to give KPP adequate time to answer any questions the governing body has about the new Power Purchase Contract.

Analysis:
The changes from the current contract language have been highlighted in the provided document.

Staff believes that the contract language change is within the scope of what was approved by the council in 2011. Staff also believes that the Kansas Power Pool is the City’s best option for purchasing electricity over the next 20 to 40 years.

Recommendations/Actions: It is recommended the City Council:

Review the proposed contract and direct staff to notify KPP of any questions the governing body has about the contract in advance of the April 17th meeting.

Attachments: Exhibit A: Letter of Intent from KPP, Exhibit B: Proposed Contract Language
December 19, 2016

Kyler Ludwig, City Administrator
City of Greensburg
300 S Main
Greensburg, KS 67054

Re: Letter of Intent

Dear Kyler:

The termination language as it exists in the various power purchase contracts, between the Kansas Power Pool (KPP) and its member Cities, was under discussion during much of the final quarter of 2016. It has been shown and agreed that certain economic and operating efficiencies are to be clearly achieved for the mutual benefit of all members by an alignment of power purchase contracts among the KPP membership. Emphasis has been placed on what increasingly appears to be uncertainty in the industry, but particularly in our region, for generation or contract resource availability beyond the next 5 years. Indeed, that was among the motivating factors for a Resolution adopted on December 16, 2016 by the 24 KPP member Cities. That Resolution, a sample of which is enclosed, was adopted among the membership by a vote of 22 Yay and 2 Nay. Further, one of the dissenting voters indicated before the entire membership that his City is open to supplementary consideration of this matter.

To accomplish an alignment of the contracts as contemplated, a re-signing is needed by those Cities which have not already signed contracts bearing the termination language that has been under consideration. That language is reflected in the enclosed Resolution. As pertaining to a new contract, it is understood that except for the termination language, and other references providing for the undertaking of Projects, the remainder of that contract would be substantially identical to the contract to which the City and KPP are already a Party respectively.

It is recognized that all governing bodies of KPP members may not act simultaneously. However, it is desirable to achieve order in record keeping by establishing a contract Effective Date that is as nearly uniform as reasonable among the membership. For that reason, KPP and your governing body, with this Letter of Intent, are hereby establishing only your intent to formally approve and execute a new power purchase contract as has been outlined and described. Further, when such contract is presented bearing acceptable language, it is the intent of your governing body to formally approve and execute such contract at the first opportunity.
Please confirm you are in agreement with the foregoing by signing the enclosed copy of this letter and returning it to KPP at the address shown hereon.

Sincerely,

Mark Chesney  
CEO/General Manager  
Kansas Power Pool

Enclosures: 2

Cc: Curtis Irby, Counsel  
    JT Klaus, Counsel  
    Andrew Kovar, Counsel

Agreed to and accepted on: ____________________________  
(date)

By: ____________________________  
(authorized signature)

Printed name: ____________________________

Title: ____________________________

For and in behalf of: ____________________________
POWER PURCHASE CONTRACT

BY AND BETWEEN

KANSAS POWER POOL

AND

CITY OF ________________, KANSAS

DATED ________________, 20__
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Schedule 1 – Form of Project Schedule
POWER PURCHASE CONTRACT

THIS POWER PURCHASE CONTRACT (the “Power Purchase Contract”) dated as of and effective as of _____________, 20__ (the “Effective Date”) by and between the Kansas Power Pool, a municipal energy agency, a quasi-municipal corporation duly organized and existing under and by the laws of the State of Kansas (the “KPP”) and the City of ______________, Kansas (the “Participant”), a municipal corporation duly organized and existing under the laws of the State of Kansas.

WITNESSETH:

WHEREAS, the KPP is a municipal energy agency duly organized and existing under the laws of the State of Kansas, including particularly K.S.A. 12-885, et seq. (the “Act”), consisting of member-cities located in the State of Kansas, including Participant; and

WHEREAS, the KPP is authorized by the Act to, inter alia, plan, finance, construct, purchase, operate, maintain, use, share costs of, own, lease, sell, and participate in any facilities used or useful in the generation, production, transmission, purchase, sale, exchange or interchange of electric energy or any interest therein or capacity thereof; and

WHEREAS, Participant is authorized to enter into contracts for the supply of electricity from any person, firm, corporation or other municipalities for a period not in excess of forty (40) years, under K.S.A. 12-825(j); and

WHEREAS, in order to secure an adequate, economic and reliable supply of electric power and energy for the Participant’s requirements, the KPP and the Participant have determined that the KPP will sell to the Participant, and the Participant will purchase from the KPP, power and energy and other services on the terms and conditions set forth herein; and

WHEREAS, through the establishment of long-term power purchase contracts with its members, the KPP is able to achieve significant economies of scale with respect to the purchase, generation, and transmission of electrical power, the benefit of which the KPP can pass along to said members; and

WHEREAS, the Participant, as a Participant under this Power Purchase Contract, shall be entitled to receive the benefit of such economies in the form of lower costs of power; and

WHEREAS, the KPP may from time to time build certain specified electric facilities, which are hereinafter referred to as “Projects”, in order to effectively supply power to one or more specified Participants, and said Projects specifically allocable to Participant, if any, shall be set forth on Schedule I to this Power Purchase Contract; and

WHEREAS, the KPP is authorized and empowered under the Act to borrow money by the issuance of revenue bonds to provide sufficient funds to construct any Project; and
WHEREAS, in order to provide economies of scale in the provision of electricity to its members and to enable the KPP to issue its revenue bonds to pay the cost of constructing such Projects, it is necessary for the KPP to have binding contracts with the Participant and each of the other Participants and to pledge the payment required to be made under such contracts as security for the payment of any such bonds.

NOW, THEREFORE, for and in consideration of the mutual promises and agreements herein contained, the parties hereto agree as follows:

1. DEFINITIONS. In addition to the words and terms elsewhere defined in this Power Purchase Contract and in any Bond Resolution, the following words and terms as used herein, whether or not the words have initial capitals, shall have the following meanings unless the context or use indicates another or different meaning or intent and such definitions shall be equally applicable to both the singular and plural forms of any of the words and terms herein defined.

1.1 “Act” shall mean K.S.A. 12-885 et seq., inclusive, as amended, and all laws amendatory or supplemental thereto.

1.2 “Allocable Portion” shall mean that percentage of any Project which is for the benefit of the Participant as set forth in Schedule I, hereto.

1.3 “Amended Operating Agreement” shall mean that certain agreement dated November 7, 2007, by and between the Kansas Power Pool and its individual member cities, as amended by the Second Amended Operating Agreement was adopted by the KPP Board of Directors on February 19, 2015, and as further amended or restated from time to time.

1.4 “Applicable Laws and Regulations” shall mean all duly promulgated applicable federal, state and local laws, regulations, rules, ordinances, codes, decrees, judgments, directive, or judicial or administrative orders, permits and other duly authorized actions of any Governmental Authority.

1.5 “Applicable Reliability Standards” shall mean the requirements and guidelines of NERC, the applicable reliability entity and the balancing authority.

1.6 “Bond Counsel” shall mean any attorney or firm of attorneys whose expertise in matters relating to the issuance of obligations by states and political subdivisions is nationally recognized, as selected by the KPP.

1.7 “Bond Resolution” shall mean a resolution of the KPP, as from time to time amended or supplemented in accordance with the terms thereof, authorizing the acquisition and construction of the Project or any additions thereto, or authorizing the issuance of any Bonds.
1.8 “Bonds” shall mean bonds, notes or other evidences of indebtedness from time to time issued by the KPP to finance any cost, expense or liability paid or incurred or to be paid or incurred by the KPP, including, but not limited to, costs of acquiring, constructing, installing, equipping and financing any Project, and including any bonds, notes or other evidences of indebtedness issued to refund Bonds.

1.9 “Code” shall mean the Internal Revenue Code of 1986, as amended, or such other general Federal tax code as shall be adopted by the United States Congress in substitution therefor, together with Regulations promulgated thereunder by the United States Department of the Treasury.

1.10 “Consultant” shall mean (a) an independent engineer or engineering firm or architect or architectural firm qualified and having a favorable reputation for skill and experience in the construction, financing and operation of public utilities, (b) an independent certified public accountant or firm of independent certified accountants, or (c) an independent consultant qualified and having a favorable reputation for skill and experience in financial affairs, all as selected by the Participant and acceptable to the KPP.

1.11 “Costs of Issuance” shall mean any and all expenses of whatever nature incurred in connection with the issuance and sale of the Bonds, including, but not limited to underwriting fees and expenses, underwriting discount, printing expenses and legal fees and expenses of counsel.

1.12 “Costs of Power” shall mean:

1.12.1 The Participant’s Allocable Portion of all operation and maintenance expenses for any Project and for actual and direct expenses related to operating, insuring, maintaining, repairing, and replacing any Project, including reasonable administrative overhead;

1.12.2 all costs of producing and delivering to the Participant electric power and energy from time to time under this Power Purchase Contract (including, but not limited to, costs which vary with the amount of electric power produced or delivered, general and administrative expenses, engineering expenses, legal and financial advisory expenses, debt service and covenant requirements of any Bonds, and other costs not otherwise set forth herein);

1.12.3 an equitably allocated portion of monthly costs of operating the KPP (including internal personnel costs, rents, administrative and general expenses and working capital, engineering expenses, legal and financial advisory expenses, required payments to pension, retirement, health and hospitalization funds, insurance premiums, and taxes or payments in lieu thereof) all to the extent not directly attributable or traceable to supplying power and energy and other services to the Participants or any other
members, and not included in the costs specified in the other items of this definition;

1.12.4 any and all charges or tariffs for electric power set by any Governmental Authority multiplied by the amount of electric power subject to such charges or tariffs provided to the Participant; and

1.12.5 the Participant’s Allocable Portion of all costs and expenses relating to injury and damage claims arising out of the Project and required to be paid by the KPP, and any additional amount not specified in the other items of this definition which must be paid by the KPP.

1.12.6 Facilities Charges, if any.

1.13 “Debt Service Coverage Ratio” shall mean, for any Fiscal Year, the ratio determined by dividing (a) a numerator equal to the Net Revenues for such Fiscal Year by (b) a denominator equal to the Debt Service Requirements for such Fiscal Year.

1.14 “Debt Service Requirements” shall mean the aggregate principal payments (whether at maturity or pursuant to scheduled mandatory sinking fund redemption requirements) and interest payments on all indebtedness of the Participant secured by any portion of the System or its revenues (including the Bonds issued for any Project, or any interest or principal otherwise payable to the KPP) for the period of time for which calculated; provided, however, that for purposes of calculating such amount, principal and interest shall be excluded from the determination of Debt Service Requirements to the extent that such principal or interest is payable from amounts deposited in trust, escrowed or otherwise set aside for the payment thereof with a trustee, paying agent or other commercial bank or trust company located in the State and having full trust powers.

1.15 “Effective Date” shall mean the date set forth in the preamble to this Power Purchase Contract.

1.16 “Expenses” shall mean all reasonable and necessary expenses of operation, maintenance and repair of the System and keeping the System in good repair and working order (other than Facilities Charges and interest paid on any indebtedness, including the Bonds, any interest or principal due the KPP, and depreciation and amortization charges during the period of determination), determined in accordance with generally accepted accounting principles, including without limiting the generality of the foregoing, current maintenance charges, expenses of reasonable upkeep and repairs, salaries, wages, costs of materials and supplies, paying agent fees and expenses, annual audits, periodic Consultant’s reports, properly allocated share of charges for insurance, the cost of purchased water, gas and power, if any, for System operation, obligations (other than for borrowed money or for rents payable under capital leases) incurred in the ordinary course of business, liabilities incurred
by endorsement for collection or deposit of checks or drafts received in the ordinary course of business, short-term obligations incurred and payable within a particular Fiscal Year, other obligations or indebtedness incurred for the purpose of leasing (pursuant to a true or operating lease) equipment, fixtures, inventory or other personal property, and all other expenses incident to the operation of the System, but shall exclude all general administrative expenses of the Participant not related to the operation of the System.

1.17 “Facilities Charge” shall mean (to the extent not recovered by the KPP as Costs of Power):

1.17.1 the Participant’s Allocable Portion of the amount necessary to pay the monthly debt service requirement on any Bonds issued to finance or refinance any Project so as to fully reimburse all actual costs of acquisition, construction and installation of any Project, including, but not limited to, Costs of Issuance, the cost of borrowing, financing costs, interest costs, and out-of-pocket administrative costs associated therewith;

1.17.2 the Participant’s Allocation Portion of any other amount which must be realized by the KPP in order to meet the requirement of any rate or tax compliance covenant made by the Participant or KPP in connection with the issuance of tax-exempt Bonds;

1.17.3 prior the issuance of such Bonds, the amount necessary to pay the monthly interest carrying costs of KPP for funds expended on the Project computed on the basis of the greater of the Carrying Interest Rate set forth on Schedule I for the applicable Project or the highest amount then being incurred by KPP for any borrowed funds; and

1.17.4 the amount necessary to pay the monthly debt service requirement on any funds expended on any Project by the KPP amortized by the KPP so as to fully reimburse all actual costs of acquisition, construction and installation of any Project, including, but not limited to, Costs of Issuance, the cost of borrowing, financing costs, interest costs, and out-of-pocket administrative costs associated therewith;

1.18 “FERC” shall mean the Federal Energy Regulatory Commission or its successor.

1.19 “Fiscal Year” shall mean the fiscal year of the Participant as established from time to time by the Participant, currently being the Twelve (12) months ending each December 31.

1.20 “Force Majeure” shall mean any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident by governmental, military or lawfully established civilian authorities, or any other cause
beyond a Party’s control. A Force Majeure event does not include acts of negligence or intentional wrongdoing by the Party claiming Force Majeure or economic hardship.

1.21 “Good Utility Practice” shall mean any of the practices, methods and acts engaged in or approved by a significant portion of the electric industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

1.22 “Governmental Authority” shall mean any federal, state, local or other governmental regulatory or administrative agency, court, commission, department, board, or other governmental subdivision, legislature, rulemaking board, tribunal, or other governmental authority having jurisdiction over the Parties, their respective facilities, or the respective services they provide, and exercising or entitled to exercise any administrative, executive, police, or taxing authority or power.

1.23 Interest” shall be calculated in accord with the methodology set forth in FERC’s regulations at 18 C.F.R. § 35.19(a)(2)(iii).

1.24 “KPP” shall mean the Kansas Power Pool, a municipal energy agency, a quasi-municipal corporation duly organized and existing under and by the laws of the State of Kansas, its successor and assigns.

1.25 “Net Revenues” shall mean all Revenues less all Expenses.

1.26 “NERC” shall mean the North American Electric Reliability Council or its successor organization.

1.27 “Participant” shall mean the municipality executing this Power Purchase Contract.

1.28 “Participants” shall mean the Participant and any other municipalities or public agencies for which the KPP is financing projects through the Bonds.

1.29 “Party” or “Parties” shall mean the KPP and the Participant, individually or collectively, as appropriate.

1.30 “Payment Date” shall mean that certain day of each calendar month upon which all or any part of the Costs of Power is due, as determined by the KPP under Section 3.2 hereof, during the term of this Power Purchase Contract beginning the next calendar month subsequent to the Effective Date.
1.31 “Power Purchase Contract” shall mean this Power Purchase Contract by and between the KPP and the Participant.

1.32 “Power Purchase Contracts” shall mean, collectively, the Power Purchase Contracts entered into by and between the Participants and the KPP.

1.33 “Project” shall mean the acquisition, construction, installation, rehabilitation, and equipment of the KPP’s portion of one or more electrical systems, if any, as set forth in Schedule I, attached hereto and incorporated herein. For the purposes of this Power Purchase Contract, the Project shall be limited to assets owned and financed by the KPP in its sole discretion and shall not include any portion of the transmission segment or other facilities (including any percentage thereof) not owned and financed by the KPP.

1.34 “Project Engineer” shall mean the Project Engineer as designated on Schedule I hereto, if any, or such other independent engineer or engineering firm or architect or architectural firm qualified and having a favorable reputation for skill and experience in the construction, financing and operation of public utilities as determined by the KPP and acceptable to Participant.

1.35 “Reasonable Efforts” shall mean, with respect to an action required to be attempted or taken by a Party under this Power Purchase Contract, efforts that are timely and consistent with Good Utility Practice and are otherwise substantially equivalent to those a Party would use to protect its own interests.

1.36 “Revenues” shall mean all income and revenues derived and collected by Participant from the operation and ownership of the System, but excluding any profits or losses on the early extinguishment of debt or on the sale or other disposition, not in the ordinary course of business, of investments or fixed or capital assets.

1.37 “SPP” shall mean the Southwest Power Pool, Inc., a regional transmission organization authorized by FERC to act as the sole transmission provider with functional control over transmission facilities within the SPP geographic region.

1.38 “State” shall mean the State of Kansas.

1.39 “System” shall mean the electric utility system of the Participant, or other integrated utility system of the Participant of which the electric utility system is a part, together with all repairs, alterations, extensions, reconstruction, enlargements or improvements made or acquired by the Participant.

1.40 “Term” shall mean the term of this Power Purchase Contract as set forth in Section 2 hereof.
2. CONDITIONS PRECEDENT TO THE EFFECTIVENESS OF THIS POWER PURCHASE CONTRACT

2.1 This Power Purchase Contract shall become effective as of the Effective Date.

2.2 The Term shall begin on the Effective Date and shall continue in force for a period ending on the later of twenty (20) years from the Effective Date or the date upon which the principal of, premium, if any, and interest on all Bonds are paid in full and the Bonds are retired; notwithstanding any provision to the contrary, the Term shall continue until all indebtedness incurred with regard to the Project is paid in full; provided however, the Term shall not exceed forty (40) years from the Effective Date.

3. SALE OF ELECTRIC POWER; PAYMENT OF COSTS OF POWER.

3.1 The KPP hereby agrees to sell, and the Participant hereby agrees to purchase from the KPP, all of the Participant’s required electrical power. In consideration, the Participant agrees to pay, exclusively from legally available funds, the Costs of Power on every Payment Date. There shall be credited against each payment of any Facilities Charge any amount required to be so credited under the provisions of the applicable Bond Resolution.

3.2 The KPP shall establish a schedule of billing for Costs of Power which is coordinated with the delivery of electric power to the Participant under this Power Purchase Contract, with payments required to be made under any Bond Resolution, and with the billing of other charges under the Amended Operating Agreement; provided however, the Participant’s obligation to pay any amount due under this Power Purchase Contract shall not be relieved by any failure of the KPP to bill the Participant for such amount. All Costs of Power shall be paid in lawful money of the United States of America, by warrant or check drawn against funds of the Participant, at the office of the KPP, or at such other place or places as may be set forth in any Bond Resolution. Any Costs of Power, or portion thereof, which are not paid when due shall remain due and payable until received by the KPP. All Costs of Power which are not paid when due shall bear Interest at the contract rate hereof (the average rate of the outstanding Bonds as of the date of nonpayment) from the date on which the Costs of Power, as the case may be, become due until the same is paid. Notwithstanding any dispute between the KPP and the Participant hereunder, the Participant shall make all payments when due and shall not withhold any payments pending the final resolution of such dispute. In the event of a determination that the Participant was not liable for said Costs of Power or any portion thereof, said payments or excess of payments as the case may be, shall be credited against subsequent Costs of Power due hereunder.

3.3 The Parties acknowledge that they are both signatories to the Amended Operating Agreement, which generally governs the relationship between the KPP and
3.4 The covenants on the part of the Participant herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the ministerial duty of each and every public official of the Participant to take such action and do such things as are required by law in the performance of the official duty of such officials to enable the Participant to carry out and perform the covenants and agreements in this Power Purchase Contract agreed to be carried out and performed by the Participant.

4. ELIGIBLE PROJECTS.

4.1 From time to time, when requested by the Participant, the KPP may design, acquire, construct, install and provide financing for, whether directly or through the use of Bonds, Projects for the use of Participant. Projects for the use of Participant are set forth at Schedule I hereof. Unless otherwise agreed between the Parties, the KPP shall own all interest in any Project, using Reasonable Efforts to complete the Project within the estimated completion period set forth for such Project on Schedule I. The KPP shall not be required to undertake any action which is inconsistent with standard safety practices, its material and equipment specifications, its design criteria and construction procedures, its labor agreements, and any applicable laws or regulations. In the event the KPP reasonably expects that it will not be able to complete the Project by the specified date, the KPP shall promptly provide written notice to the Participant and shall undertake Reasonable Efforts to meet the earliest dates thereafter. KPP specifically agrees that it will keep Participant informed as to any material change, defined as a delay of thirty (30) days or more in the construction schedule for any Project set forth in Exhibit B to Schedule I hereof or any increase in the costs of design, construction and installation of any Project in the amount of 20% over the estimated pricing schedule set forth in Exhibit A to Schedule I hereof.

4.2 During the Term, unless specifically provided otherwise on Schedule I, the KPP shall be responsible for the operation, maintenance, renewal and replacement of any Project at its sole discretion in accordance with Good Utility Practice; provided however, that, in any event, any renewal or replacement shall become a part of such Project pledged to any Bonds, shall be made in accordance with and subject to any restrictions set forth in any lease or agreement entered into with respect to Bonds, and otherwise shall not affect any Bonds or the security therefore. The KPP, or the Participant if provided in Schedule I, shall be allowed to contract for the operation and maintenance necessary to maintain any Project; provided, however, if such Project is financed with or pledged to Bonds, the terms of any such contract shall meet the requirements of Treas. Reg. 1.141-7(g) for the operation of transmission facilities by nongovernmental persons and shall not otherwise affect the exemption of interest on the Bonds from federal or state income tax. The SPP or such other
Regional Transmission Organization authorized by FERC shall maintain functional control of any transmission Project.

4.3 The Parties understand and agree that, during construction and installation of any Project, the firm performing construction and all other parties will carry insurance coverage for the protection of the Parties. The Parties further agree that Participant will insure any Project for liability, property damage and such other losses as the Parties hereto may mutually agree and see that said property and Project are continuously insured for all hazards and damages that might occur to the property or Project, in such amount(s) as is satisfactory to the KPP. The Participant will maintain said policy in its name with the KPP named as an additional insured, and said policy shall contain a provision that such insurance may not be canceled or amended by the issuer thereof without at least thirty (30) days’ written notice to the KPP and shall be payable to the KPP and Participant.

4.4 Unless otherwise agreed between the Parties, upon expiration of the Term and payment in full of all Participant’s obligations to the KPP, title to any Projects shall remain in the KPP and Participant shall have no right or interest in the Projects.

4.5 To the extent necessary, Participant will, at its own expense, procure from third parties any rights of use, licenses, rights-of-way, easements or other interests in real estate necessary to construct, install, operate and maintain any Project. The KPP agrees to cooperate in all respects with regard to the procurement of such interests. To the extent property owned by Participant is involved in said requirements, Participant, in consideration of this Power Purchase Contract, will provide such necessary interests to the KPP at no cost.

4.6 The Parties shall meet and agree to written reporting procedures by and between themselves, the Project Engineer and other third parties.

4.7 During the term of this Power Purchase Contract, the KPP may share ownership of the electrical facilities described in Schedule I hereof, if any, with any third party either jointly or on a percentage basis, or any other acceptable form of ownership, all in the KPP’s sole discretion.

4.8 KPP will be responsible for submitting its respective revenue requirements to SPP for the collection of revenue related to any Project. Distribution of such revenue to KPP will be pursuant to the SPP OATT.

4.9 The Parties hereto agree that KPP will file, under the SPP OATT tariff, for approval of zonal funding of any Project; and that said funding, when made available through SPP, will be used, allocated and credited to Participant’s Costs of Power due under this Power Purchase Contract.

5. REPRESENTATIONS OF EACH PARTY. Each Party makes the following representations
5.1 Such Party is duly organized, validly existing and in good standing under the laws of this state; that it is qualified to do business in the State of Kansas; and that it has the corporate power and authority to own its properties, to carry on its business as now being conducted and to enter into this Power Purchase Contract and carry out the transactions contemplated hereby and perform and carry out all covenants and obligations on its part to be performed under and pursuant to this Power Purchase Contract.

5.2 Such Party has the right, power and authority to enter into this Power Purchase Contract, to become a Party hereto and to perform its obligations hereunder. This Power Purchase Contract is a legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms, except as the enforceability thereof may be limited by applicable bankruptcy, insolvency, reorganization or other similar laws affecting creditors’ rights generally and by general equitable principles (regardless of whether enforceability is sought in a proceeding in equity or at law).

5.3 The execution, delivery and performance of this Power Purchase Contract does not violate or conflict with the organizational or formation documents, or bylaws or operating agreement, as amended, of such Party, or any judgment, license, permit, order, material agreement or instrument applicable to or binding upon such Party or any of its assets.

5.4 Such Party has sought or obtained, or, in accordance with this Power Purchase Contract will seek or obtain, each consent, approval, authorization, order, or acceptance by any Governmental Authority in connection with the execution, delivery and performance of this Power Purchase Contract, and it will provide to any Governmental Authority notice of any actions under this Power Purchase Contract that are required by applicable laws and regulations.

5.5 This Power Purchase Contract is an obligation of the Participant exempt from the Kansas cash basis and budget law set forth in K.S.A. 10-1101 et seq. (pursuant to K.S.A. 10-1116b and/or K.S.A. 12-825j), and shall not be subject to appropriations restrictions set forth thereunder.

6. **COVENANTS OF THE PARTICIPANT**

6.1 The Participant agrees to establish, impose, maintain, enforce and collect rates, fees and charges for electric power and energy, including as a part of any integrated utility system, to its consumers which shall provide the Participant Revenues sufficient to (a) meet its obligations to the KPP under this Power Purchase Contract and all other operating expenses, (b) to pay all obligations payable from, or constituting a charge or lien on, the Revenues of its electric system, (c) enable the Participant to have in each Fiscal Year a Debt Service Coverage Ratio of not less than 1.25 on all Bonds at
the time outstanding, and (d) to meet any required financial covenants in connection with the issuance of any Bonds. The Participant shall not be required to make payments under this Power Purchase Contract except from the revenues of the System and from other funds legally available therefore. If in any Fiscal Year, Net Revenues are an amount less than as hereinbefore provided, the Issuer will immediately employ a Consultant to make recommendations with respect to such rates and charges. A copy of the Consultant’s report and recommendations shall be filed with the KPP and Participant and the Participant will, to the extent feasible, follow the recommendations of the Consultant.

6.2 The Participant shall not sell, lease or otherwise dispose of all or substantially all of the System except on ninety (90) days prior written notice to the KPP and, in any event, shall not so sell, lease or otherwise dispose of the same unless the following conditions are met: (1) the Participant shall assign this Power Purchase Contract and its rights and interest hereunder to the purchaser or lessee of the System, and such purchaser or lessee shall assume all obligations of the Participant under this Power Purchase Contract; (2) if and to the extent necessary to reflect such assignment and assumption, the KPP and such purchaser or lessee shall enter into an agreement supplemental to this Power Purchase Contract to clarify the terms on which electric power and other services are to be sold hereunder by the KPP to such purchaser or lessee; (3) the senior debt of such purchaser or lessee shall be rated in one of the four highest whole rating categories by at least one nationally-recognized bond rating agency; if the senior debt of the purchaser or lessee is not rated by any such agency, this condition shall be satisfied if a consultant, nationally recognized as experienced in performing evaluations of the operations of electric utilities, opines that the purchaser or lessee is capable of fulfilling the obligations hereunder which are to be transferred to it; the Participant proposing an electric utility not so rated shall submit to the KPP a list of seven such consultants, and the KPP, within thirty days of receipt of such list, may select one consultant therefrom; and (4) the KPP shall, by resolution of its Board of Directors, determine in its sole discretion, with the written concurrence of Bond Counsel, that such sale, lease or other disposition will not adversely affect the value of this Power Purchase Contract as security for the payment of the Bonds and interest thereon, or affect the eligibility of interest on the Bonds for federal tax-exempt status.

6.3 The Participant hereby covenants and agrees to accept any other reasonable financial covenants and requirements as required for the financing of the Project provided that the KPP shall provide written notice of any such covenant at least thirty days prior to the effectiveness of such covenant. If the Participant objects to such covenant within such thirty day period, such covenant will not take effect until agreed to by Participant and the KPP. If Participant fails to object during such thirty day period, such covenant will be deemed to have been accepted and will take effect as provided in the notice provided by the KPP.
6.4 The Participant covenants and agrees that it shall take no action, the effect of which would be to prevent, hinder or delay the KPP from the timely fulfillment of its obligations under this Power Purchase Contract, any outstanding Bonds or any Bond Resolution.

6.5 Subject to the Debt Service Coverage Ratio requirements of Paragraph 6.1, the Participant may issue bonds, notes or other evidences of indebtedness which, under generally accepted accounting principles, would appear as a liability on its balance sheet, and which shall be payable from the revenues derived from the System after the payment of the operating expenses of such system; provided however, that the Participant shall not issue any such indebtedness pursuant to which the Participant is obligated to make such payments prior to, or on a parity with, the payment of operating expenses or Facilities Charges.

6.6 The Participant covenants and agrees that it shall not take any action, use, or permit to be used any of the electric power provided under this Power Purchase Contract in any manner or for any purpose which would cause any Bond to be subject to treatment under subsection (b) of Section 103 of the Code as an obligation not described in subsection (a)(1) of such Section 103. The Participant covenants that, prior to entering into any agreement whereby a person (other than a normal customer) agrees to take and pay for, or to take or pay for, electric power provided under this Power Purchase Contract, the Participant shall notify the KPP of its intent to enter into such agreement. As soon as practicable after receipt of such notice, the KPP shall advise the Participant as to whether, in the opinion of Bond Counsel, the entering of such agreement would result in a violation of the covenants contained herein. The Participant agrees that, if the KPP advises the Participant that such a violation will or might result, the Participant will not enter into such agreement.

6.7 The Participant covenants and agrees that it shall (1) at all times operate the System and the business in connection therewith according to all Applicable Laws and Regulations, Applicable Reliability Standards and Good Utility Practice, (2) maintain the System in good repair, working order and condition, (3) conduct audits of the System by an independent certified public accounting firm at least annually, and (4) from time to time, make all necessary and proper repairs, renewals, replacements, additions, betterments and improvements with respect to the System so that, at all times, the business shall be properly and advantageously conducted; provided, however, that this covenant not be construed as requiring the Participant to expend any funds which are derived from sources other than the operation of the System, and provided further that nothing herein shall be construed as preventing the Participant from doing so.

7. INFORMATION.

7.1 The KPP and the Participant will promptly furnish to each other such information as may be reasonably requested from time to time in order to carry out more effectively
the intent and purpose of this Power Purchase Contract, or as may be reasonably necessary and convenient in the conduct of the operations of the party requesting such information. Without limiting the generality of the foregoing, the Participant shall, upon request, furnish to the KPP all such information, certificates, engineering reports, feasibility reports, information relating to load forecasts and generation and transmission expansion plans, financial statements, opinions of counsel, official statements and other documents as shall be reasonably necessary in connection with the Project and its financing.

8. **REGULATORY REQUIREMENTS.**

8.1 The KPP shall make all filings, obtain all certificates, ensure all legal and regulatory obligations are met with regard to any Project, and perform all other actions necessary to fulfill all legal and regulatory obligations set forth by any Governmental Authority. The Participant shall reasonably cooperate with the KPP with respect to such actions and provide any information reasonably requested by the KPP needed to comply with applicable regulatory requirements.

9. **DAMAGE BY FIRE, EARTHQUAKE, ETC.** In the event of destruction or damage to any Project by fire or earthquake or other casualty or events so that it becomes wholly or partly unusable, the KPP, at its option, may do either of the following:

9.1 Rebuild and repair the Project so that it shall be restored to use, in which case this Power Purchase Contract shall remain and continue uninterrupted and in full force and effect (the Participant shall have no right to abate the Costs of Power hereunder during said period of repairing or rebuilding and shall continue to make the Costs of Power required under Section 3 herein) and any excess of insurance proceeds resulting from such destruction or damage over the amount expended for such repairing or rebuilding, shall be paid to the KPP for deposit into the Project Fund and shall be used as provided in any Bond Resolution; or

9.2 Declare this Power Purchase Contract to be terminated and pay or direct the payment of any money collected from insurance from the destruction of or damage to the Project, to the KPP for satisfaction of any Bonds or indebtedness attributable to the Project.

10. **ASSIGNMENT**

10.1 Neither this Power Purchase Contract nor any interest of the Participant herein shall, at any time after the date hereof, without the prior written consent of the KPP, be mortgaged, pledged, assigned or transferred by the Participant by voluntary act or by operation of law, or otherwise, except as specifically provided herein. The Participant shall at all times remain liable for the performance of the covenants and conditions on its part to be performed, notwithstanding any assigning or transferring which may be made.
10.2 The KPP shall have the right to assign its interest in this Power Purchase Contract to a trustee for the benefit of the Owners of the Bonds pursuant to any Bond Resolution; and the parties hereto agree to execute any and all documents necessary and proper in connection therewith. In the event of such assignment, anything required or permitted to be done or performed by the KPP under this Power Purchase Contract may, as so provided under the applicable Bond Resolution, be done or performed by the trustee thereunder.

11. INDEMNITY AND CONSEQUENTIAL DAMAGES

11.1 Indemnity. The Parties shall at all times indemnify, defend, and hold the other Party harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demand, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the other Party’s action or inactions of its obligations under this Power Purchase Contract on behalf of the Indemnifying Party, except in cases of negligence or intentional wrongdoing by the Indemnified Party.

11.1.1 Indemnified Person. If an Indemnified Person is entitled to indemnification under this Section as a result of a claim by a third party, and the Indemnifying Party fails, after notice and reasonable opportunity to proceed under Section 11.1, to assume the defense of such claim, such Indemnified Person may at the expense of the Indemnifying Party contest, settle or consent to the entry of any judgment with respect to, or pay in full, such claim.

11.1.2 Indemnifying Party. If an Indemnifying Party is obligated to indemnify and hold any Indemnified Person harmless under this Section, the amount owing to the Indemnified Person shall be the amount of such Indemnified Person’s actual loss, net of any insurance or other recovery.

11.1.3 Indemnity Procedures. Promptly after receipt by an Indemnified Person of any claim or notice of the commencement of any action or administrative or legal proceeding or investigation as to which the indemnity provided for herein may apply, the Indemnified Person shall notify the Indemnifying Party of such fact. Any failure of or delay in such notification shall not affect a Party’s indemnification obligation unless such failure or delay is materially prejudicial to the Indemnifying Party.

The Indemnifying Party shall have the right to assume the defense thereof with counsel designated by such Indemnifying Party and reasonably satisfactory to the Indemnified Person. If the defendants in any such action include one or more Indemnified Persons and the Indemnifying Party and if the Indemnified Person reasonably concludes that there may be legal defenses available to it and/or other Indemnified Persons which are different from or additional to those available to the Indemnifying Party, the Indemnified Person shall have the
right to select separate counsel to assert such legal defenses and to otherwise participate in
the defense of such action on its own behalf. In such instances, the Indemnifying Party shall
only be required to pay the fees and expenses of one additional attorney to represent an
Indemnified Person or Indemnified Persons having such differing or additional legal
defenses.

The Indemnified Person shall be entitled, at its expense, to participate in any such action, suit
or proceeding, the defense of which has been assumed by the Indemnifying Party. Notwithstanding the foregoing, the Indemnifying Party (i) shall not be entitled to assume and
control the defense of any such action, suit or proceedings if and to the extent that, in
the opinion of the Indemnified Person and its counsel, such action, suit or proceeding involves
the potential imposition of criminal liability on the Indemnified Person, or there exists a
conflict or adversity of interest between the Indemnified Person and the Indemnifying Party,
in such event the Indemnifying Party shall pay the reasonable expenses of the Indemnified
Person, and (ii) shall not settle or consent to the entry of any judgment in any action, suit or
proceeding without the consent of the Indemnified Person, which shall not be reasonably
withheld, conditioned or delayed.

11.2  **Consequential Damages.** In no event shall either Party be liable under any provision
of this Power Purchase Contract for any losses, damages, costs or expenses for any
special, indirect, incidental, consequential, or punitive damages, including but not
limited to loss of profit or revenue, loss of the use of equipment, cost of capital, cost
of temporary equipment or services, whether based in whole or in part in contract, in
tort, including negligence, strict liability, or any other theory of liability; provided,
however, that damages for which a Party may be liable to the other Party under
another agreement will not be considered to be special, indirect, incidental, or
consequential damages hereunder.

11.3  **Kansas Tort Claims Act.** Nothing in this Power Purchase Contract, nor any section
of this Power Purchase Contract, shall constitute a waiver of or consent to be bound
by any waiver of individual or personal immunity (whether it be absolute or qualified
immunity) granted by law to the officers, administrators, board members, council
members, employees or agents of Participant or KPP or its individual member cities,
of the provisions of the Kansas Tort Claims Act, K.S.A. 61-6101 et seq, from which
municipalities or municipal energy agencies may not exempt themselves.

12.  **NOTICES**

12.1  Unless provided otherwise by this Power Purchase Contract, any notice, request,
demand, statement, billing, payment or routine communication allowed or permitted
by this Power Purchase Contract or any notice or communications which either Party
may desire to give to the other shall be in writing and shall be considered as delivered
when received by the primary addressee of the other Party, by certified United States
mail addressed to the other Party at its address indicated below, or at such other
address as either Party may designate for itself in a notice to the other Party.
If to KPP:
Mark Chesney, General Manager/CEO
Kansas Power Pool
250 W. Douglas, Suite 110
Wichita, Kansas 67202

If to Participant, at the address set forth on the signature page hereto.

12.2 In lieu of providing notice by certified mail, any notice, request, demand, statement, billing, payment or communication shall be in writing and shall be considered as delivered when delivered to the primary addressee by prepaid overnight delivery to the other Party by the United States Postal Service, Federal Express, Airborne or United Parcel Service or by personal delivery at the address of the other Party indicated above.

12.3 Each Party shall notify the other Party in writing of the identity of the person(s) that it designates as the point(s) of contact with respect to operations and maintenance under this Power Purchase Contract, and any subsequent changes to such designation(s).

13. WAIVER.

13.1 The waiver by the KPP of any breach by the Participant of any term, covenant or condition hereof shall not operate as a waiver of any subsequent breach of the same or any other term, covenant or condition hereof.

14. DEFAULT BY THE PARTICIPANT

14.1 If (i) the Participant shall fail to make any Costs of Power payment due hereunder within Fifteen (15) days from the date it is due and payable, or (ii) the Participant shall fail to keep any other terms, covenants or conditions contained herein for a period of Sixty (60) days after written notice thereof from the KPP to the Participant, or (iii) the Participant’s interest in this Power Purchase Contract or any part thereof shall be assigned or transferred without the written consent of the KPP, either voluntarily or by operation of law, or (iv) the Participant shall file any petition or institute any proceedings wherein or whereby the Participant asks or seeks or prays to be adjudicated a bankrupt, or to be discharged from any or all of its debts or obligations, or offers to the Participant’s creditors to effect a composition or extension of time to pay the Participant’s debts, or asks, seeks or prays for a reorganization or to effect a plan of reorganization, or for a readjustment of the Participant’s debts, or for any other similar relief, or (v) any such petition or any such proceedings of the same or similar kind or character shall be filed, instituted or taken against the Participant, then and in any of such events the Participant shall be deemed to be in default hereunder.
14.2 If the Participant should, after notice of such default, fail to remedy any default, then the KPP shall have the right, at its option, without any further demand or notice (i) to suspend the delivery of electric power provided under this Power Purchase Contract until the amount due has been paid and is given the right to market and dispose of such electric power to other non-defaulting Participants or to other members of the KPP, under the most economically advantageous terms and conditions obtainable as determined in the sole judgment of the KPP; (ii) to terminate this Power Purchase Contract, (iii) to recover from the Participant all damages and expenses resulting from the Participant’s default, including, but not limited to, any costs of collection and reasonable attorneys’ fees and expenses, (iv) to bring any suit, injunction or action for specific performance, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Power Purchase Contract against the Participant, and (v) to all other remedies provided the KPP under law and equity. The foregoing remedies of the KPP are in addition to and not exclusive of any other remedy of the KPP. No suspension or termination under this Section shall relieve the Participant from liability for payment of the Costs of Power or other amounts due hereunder.

15. FORCE MAJEURE

15.1 Neither Party shall be considered to be in Default with respect to any obligation hereunder, other than the obligation to pay money when due and the obligations of Section 6.6 hereof, if prevented from fulfilling such obligation by Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due and the obligations of Section 6.6 hereof) by reason of Force Majeure shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this Article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance.

16. EXECUTION

16.1 This Power Purchase Contract may be simultaneously executed in any number of counterparts, each of which when so executed shall be deemed to be an original, but all together shall constitute but one and the same Power Purchase Contract, and it is also understood and agreed that separate counterparts of this Power Purchase Contract may be separately executed by the KPP and the Participant, all with the same full force and effect as though the same counterpart had been executed simultaneously by both the KPP and the Participant.
17. VALIDITY

17.1 If any one or more of the terms, provisions, promises, covenants or conditions of this Power Purchase Contract shall to any extent be adjudged invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, each and all of the remaining terms, provisions, promises, covenants and conditions of this Power Purchase Contract shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.

17.2 If a trustee is substituted for the KPP pursuant to a Bond Resolution, all references herein to the KPP shall be deemed to mean the trustee as the case may be.

18. AMENDMENTS

18.1 Except as expressly provided herein, neither this Power Purchase Contract nor any terms hereof may be terminated, amended, supplemented, waived or modified except by an instrument in writing executed by each party hereto. Furthermore, the Board of Directors of the KPP (a) may not amend the terms of any Power Purchase Contracts without the express written consent of not less than 51% of the Participants and (b) shall not consent or agree to, or permit any rescission of, or amendment to, or otherwise take any action under or in connection with, any Power Purchase Contract which will reduce the payments required thereunder or which will in any manner materially impair or materially adversely affect the rights of the KPP thereunder or the rights or security of the holder(s) of any Bonds under any Bond Resolution. The extension of the term of any Power Purchase Contract shall not constitute an amendment prohibited by either clause (a) or clause (b) above.

19. LAW; JURISDICTION.

19.1 The validity, interpretation and performance of this Power Purchase Contract and each of its provisions shall be governed by the laws of the State of Kansas. Exclusive jurisdiction and venue of this Power Purchase Contract shall be in the District Court of Sedgwick County, Kansas.

20. HEADINGS.

20.1 Any headings preceding the texts of the several Sections hereof shall be solely for convenience of reference and shall not constitute a part of this Power Purchase Contract, nor shall they affect its meaning, construction or effect.

[Remainder of Page Intentionally Left Blank]
IN WITNESS WHEREOF, the parties hereto have caused this Power Purchase Contract to be executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, all as of the day and year first above written.

CITY OF ________________, KANSAS

[seal]

By____________________________________
____________________, Mayor

ATTEST:

Address:

____________________________________
____________________________________

By____________________________________
____________________, City Clerk

“PARTICIPANT”

ACKNOWLEDGMENT

STATE OF KANSAS )
) ss:
COUNTY OF ____________ )

On this ___ day of __________, 20__, before me, a Notary Public, in and for the County and State aforesaid, duly sworn, personally appeared _______________ and ________________, known to me to be Mayor and City Clerk, respectively, of the governing body of the City of ________________, Kansas, a municipal corporation, that they executed the within instrument on behalf of said City, therein named as the Participant, and acknowledged to me that they executed the within instrument pursuant to a Resolution of the governing body of said City.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal on the day and year first above written.

____________________________________
Notary Public

My Appointment Expires:

____________________
KANSAS POWER POOL

By ____________________________
Mark Chesney, General Manager and CEO
SCHEDULE I

PROJECTS

Project 1:

Incorporated by reference herein in this Schedule I are the following specific exhibits:

Exhibit A - Estimated Costs of the Construction of Project 1.

Exhibit B – Estimated Construction Schedule Project 1.

Participant’s Allocable Portion of Project 1 - 100%

Estimated Completion Period for Project 1 – ______________, 20__

Project Engineer:

Carrying Interest Rate: ____%
IN WITNESS WHEREOF, the parties hereby supplement the Power Purchase Contract and certify that the above Project shall be incorporated into the Power Purchase Contract as a “Project” within the meaning of Section 1.33 and 4 thereof, executed and attested by their proper officers thereunto duly authorized, and their official seals to be hereto affixed, all as of ____________________.

CITY OF ______________, KANSAS

[seal]

By _______________________________

______________, Mayor

ATTEST:

By _______________________________

______________, City Clerk

KANSAS POWER POOL

[seal]

By _______________________________

______________, Secretary

ATTEST:

By _______________________________

______________, Secretary
EXHIBIT A

PRELIMINARY OPINION OF PROBABLE COSTS

PROJECT 1
EXHIBIT B

PROPOSED SCHEDULE

PROJECT 1

Project 1 is anticipated to be complete by ________________, 20__. 
TO: Mayor and City Council
SUBJECT: 903 N Sycamore – Call for Hearing
INITIATED BY: City Administrator, Kyler Ludwig

Background:
In January of 2017 Arrow Zanghi approached the City requesting a conditional building permit for his property at 903 N. Sycamore. Mr. Zanghi placed a structure that was under the abatement process in Mullinville onto his property, but he committed to City Staff that he would bring the home into compliance with codes quickly. Staff set deadlines for compliance, which included the structure being placed on a foundation by March 18th (approximately 60 days) and the completion of the project by July 31, 2017.

During citizen comments on March 6th, Arrow stated that he was injured on March 2nd and would not be able to complete the project in the allotted time. Staff feels that based on the progress Mr. Zanghi made in the first 6 weeks prior to his injury, he had no intention to finish the project within the set deadline.

Analysis:
The proposed resolution sets a hearing for Mr. Zanghi to come before the council on May 15th.

<table>
<thead>
<tr>
<th>Event</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Informal Discussion (VIII, 8-712,a)</td>
<td>March 20, 2017</td>
</tr>
<tr>
<td>Resolution- Notice of Formal Hearing (VIII,8-712,b)</td>
<td>April 3, 2017</td>
</tr>
<tr>
<td>Publish Resolution in Paper of Record (KSA 12-1752)</td>
<td>April 12 &amp; 19, 2017</td>
</tr>
<tr>
<td>Notification Sent to Landowner</td>
<td>April 12, 2017</td>
</tr>
<tr>
<td>Formal Hearing (VIII,8-712,b)</td>
<td>May 15, 2017</td>
</tr>
<tr>
<td>Publish Resolution Directing Owner to “Repair or Remove”</td>
<td>May 24, 2017</td>
</tr>
<tr>
<td>Reasonable Time Given to Repair or Remove the Structure</td>
<td>July 31, 2017</td>
</tr>
</tbody>
</table>

The deadline of July 31st is a deadline that Mr. Zanghi agreed to in the terms of his conditional building permit. Going through this process gives council the authority to remove or repair the structure.

Recommendations/Actions: It is recommended the City Council:
Motion: Approve resolution 2017-02 calling for a formal hearing.

Attachments: Exhibit A: Proposed Resolution, Exhibit B: Permit Conditions
RESOLUTION NO. 2017-02

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF GREENSBURG.

WHEREAS, the governing body of the City of Greensburg, Kansas, is charged with the responsibility of enforcing Chapter VIII, Article 7 of the City Code; and

WHEREAS, Chapter VIII, Article 7 of the City Code provides the City with the authority to order to correct and/or repair, remove or demolish a blighted premises; and

WHEREAS, the Public Officer has inspected and determined a blighted premise exists on All of Block Four (4); Lots One (1), Two (2), Three (3), Four (4), five (5), and Six (6), and the North Twelve Feet (N12') of Lot Twelve (12) in Block Thirteen (13), all in Lakeside Addition, city of Greensburg, Kiowa County, Kansas, more commonly known as 903 North Sycamore, and

WHEREAS, under City Code Section 8-712 it is the right of the governing body to adopt a resolution fixing a time and place at which the owner, the owners’ agent, any lien holder of record, and any occupant of any such structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished;

NOW, THEREFORE, be it resolved by the governing body that a hearing shall be held on May 15, 2017 at 6:00p.m. during the regular City Council meeting at which time the owner of the above described property, the owner’s agent, any lien holder of record, and any occupant of the structure may appear and show cause why the structure should not be condemned and ordered repaired or demolished; and

BE IT FURTHER RESOLVED, that this Resolution shall be published once each week for two consecutive weeks on the same day of each week and that a copy of this resolution shall be mailed by certified mail within three days after its first publication to each owner, agent, lien holder and occupant at the last known place of residence and shall be marked “deliver to addressee only”.

This Resolution is approved and adopted this 3rd day of April, 2017, and it shall be effective upon publication in the official newspaper.

_______________________________
ROBERT A. DIXSON, Mayor

ATTEST:

_______________________________
CHRISTY PYATT, City Clerk
Conditional Building Permit Agreement

I ________________________ agree to the following terms as conditions to the building permit for the property located at ________________________________.

- The City will be provided with a copy of the property’s survey conducted by a licensed surveyor prior to a permit being issued.
- The foundation footings will reach at least 30 inches below the dirt grade.
- The structure will sit a minimum of 8 inches above grade when backfilled.
- The foundation will meet the minimum requirements set in the 2003 IRC code.
- The foundation will have a minimum of 3 blocks, a 2 foot crawl space, and the building will be securely strapped to the foundation with pinning every 4 feet.
- The structure will be set on the foundation by March 18\textsuperscript{th} of 2017.
- The structure’s electric infrastructure will meet the 2003 IRC and is subject to inspection by City staff.
- The siding will be completed by July 31\textsuperscript{st} of 2017.
- The roof will be completed by July 31\textsuperscript{st} of 2017.
- The home will be sealed with appropriate windows and venting by July 31\textsuperscript{st} of 2017.
- The structure will meet all requirements set in the 2003 IRC
- Plumbing of the structure will meet the City’s adopted plumbing codes.
- The construction is subject to inspection by city representatives to insure the facility meets the established requirements.
- The conditional building permit may be suspended or revoked for failure to meet the set requirements.

If the agreed upon deadlines and requirements are not met, I ________________________
understand that the property is in violation of the City’s codes, and is subject to the cities abatement process, which may include fines and/or the removal of the structure at the expense of the property owner.

Signature of Building Permit Applicant _______________________________________

Date ______________________________________________________________________
TO: Mayor and City Council
SUBJECT: Fire Relief Fund
INITIATED BY: Mayor Robert Dixson

Background:
Earlier this month wildfires across Kansas destroyed over 651,000 acres. Clark County took was particularly hard hit with approximately 400,000 acres burned. The high winds made fighting the fire nearly impossible. Nearly 150 people were displaced from their homes while the fires were burning. The City of Englewood and surrounding areas lost 30 structures to the fire.

Analysis:
Mayor Dixson has requested that the council discuss options to assist those who suffered in the fires.

Staff is in communications with Clark County Emergency Management to determine what volunteer work is needed.

The Community Foundation in Ashland has been collecting funds to help those in need. If the council wanted to provide financial assistance it would need to come from the general fund or from the electric fund.