

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

In the Matter of the Application of)
Grain Belt Express Clean Line LLC for a)
Certificate of Convenience and Necessity)
Authorizing It to Construct, Own, Operate,)
Control, Manage and Maintain a High) Case No. EA-2016-0358
Voltage, Direct Current Transmission Line)
and an Associated Converter Station)
Providing an Interconnection on the)
Maywood-Montgomery 345 kV)
Transmission Line.)

**MISSOURI JOINT MUNICIPAL ELECTRIC UTILITY COMMISSION'S
SUPPLEMENTATION OF HEARING EXHIBIT 479**

The Missouri Joint Municipal Electric Utility Commission (“MJMEUC”), in compliance with 4 CSR 240-2.130(17), hereby supplements its Hearing Exhibit 479 which was received into the record of evidence with no objection lodged by any party.¹ Hearing Exhibit 479 provided copies of the executed contracts between MJMEUC and the City of Kirkwood, and between MJMEUC and the City of Hannibal, for renewable Kansas wind energy delivered via the Grain Belt Express Clean Line Project (“Project”).² MJMEUC’s CEO and President, Duncan Kincheloe, testified as to the municipal commitments totaling, at the time of the hearing, 100 MW of energy delivered via the Project (60 MW from the 35 MoPEP cities, 25 MW from the City of Kirkwood, and 15 MW from the City of Hannibal).³

Mr. Kincheloe also testified that he expected commitments would soon come from the City of Columbia for an additional 35 MW and from the City of Centralia for an additional 1 MW.⁴ Both the City of Columbia and the City of Centralia have now executed formal contracts

¹ Transcript, March 23, 2017, page 1005 line 4 to line 21 (“Tr. 1005:4 – 21”).

² Tr. 980:19 – 981:8.

³ Tr. 980:19 – 981:11.

⁴ Tr. 980:21 – 981:15; 984:16-24; 995:1 – 997:2.

to take that renewable energy via the Project, and those two contracts are attached to this filing for supplementation of the record of evidence at Hearing Exhibit 479.

Respectfully Submitted,

By: /s/ Peggy A. Whipple
Peggy A. Whipple MO Bar # 54758
Douglas L. Healy, MO Bar #51630
Penny M. Speake, MO Bar #37469
Healy Law Offices, LLC
514 East High Street, Suite 22
Jefferson City, MO 65101
Telephone: (573) 415-8379
Facsimile: (573) 415-8379
Email: peggy@healylawoffices.com
ATTORNEYS FOR MJMEUC

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Missouri Joint Municipal Electric Utility Commission's Supplementation of Hearing Exhibit 479 was served by electronically filing with EFIS and emailing a copy to the following interested persons on this 14th day of June, 2017:

Missouri Public Service Commission
Staff Counsel Department
P.O. Box 360
Jefferson City, MO 65102
staffcounsel@psc.mo.gov

Grain Belt Express Clean Line, LLC
Joshua Harden
4520 Main Street, Suite 1100
Kansas City, MO 64111
joshua.harden@dentons.com

Grain Belt Express Clean Line, LLC
Lisa A. Gilbreath
254 Commercial Street
Portland, ME 64111-0410
lgilbreath@pierceatwood.com

Grain Belt Express Clean Line, LLC
Karl Zobrist
4520 Main Street, Suite 1100
Kansas City, MO 64111
karl.zobrist@dentons.com

Missouri Public Service Commission
Nathan Williams
P.O. Box 360
Jefferson City, MO 65102
Nathan.Williams@psc.mo.gov

Grain Belt Express Clean Line, LLC
Cary Kottler
1001 McKinney, Suite 700
Houston, TX 77002
ckottler@cleanlineenergy.com

Eastern Missouri Landowners Alliance
David C. Linton
314 Romaine Spring View
Fenton, MO 63026
jdlinton@reagan.com

Consumers Council of Missouri
John B. Coffman
871 Tuxedo Blvd.
St. Louis, MO 63119-2044
john@johncoffman.net

Grain Belt Express Clean Line, LLC
Erin Szalkowski
1001 McKinney Street, Suite 700
Houston, TX 77002
eszalkowski@cleanlineenergy.com

Empire District Electric Company
Dean L. Cooper
P.O. Box 456
Jefferson City, MO 65102
dcooper@brydonlaw.com

IBEW Local Union 2
Emily Perez
7730 Carondelet Ave., Suite 200
St. Louis, MO 63105
eperez@hammondshiners.com

IBEW Local Union 2
Sherrie Hall
7730 Carondelet Ave., Suite 200
St. Louis, MO 63105
sahall@hammondshiners.com

Missouri Industrial Energy Consumers
Diana M. Vuylsteke
211 N. Broadway, Suite 3600
St. Louis, MO 63102
dmvuylsteke@bryancave.com

Natural Resources Defense Council
Henry B. Robertson
319 N. Fourth St., Suite 800
St. Louis, MO 63102
hrobertson@greatriverslaw.org

Office of the Public Counsel
Lera Shemwell
P.O. Box 2230
Jefferson City, MO 65102
Timothy.opitz@ded.mo.gov

Michele Hall
4520 Main St, Suite 1100
Kansas City, MO 64111
Michele.hall@dentons.com

The Wind Coalition
Deirdre K. Hirner
2603 Huntleigh Place
Jefferson City, MO 65109
dhirner@awea.org

Renew Missouri
Andrew J. Linhares
1200 Rogers Street, Suite B
Columbia, MO 65201-4744
Andrew@renewmo.org

Rockies Express Pipeline
Sarah E. Giboney
Cheryl L. Lobb
Colly J. Durley
P.O. Box 918
Columbia, MO 65205-0918
giboney@smithlewis.com
lobb@smithlewis.com
durley@smithlewis.com

Infinity Wind Power
Terri Pemberton
3321 SW 6th Avenue
Topeka, KS 66606
terri@caferlaw.com

Missouri Landowners Alliance
Paul A. Agathen
485 Oak Field Ct.
Washington, MO 63090
paa0408@aol.com

The Wind Coalition
Sean Brady
P.O. Box 4072
Wheaton, IL 60189-4072
sbrady@windonthewires.org

Missouri Farm Bureau
Brent Haden
827 East Broadway
Columbia, MO 65201
brent@hadenlaw.com

Glenda Cafer
3321 Southwest 6th Avenue
Topeka, KS 66606
glenda@caferlaw.com

James Faul
4399 Laclede Avenue
St. Louis, MO 63108
jfaul@hghllc.net

Brian Bear
P.O. Box 1766
Jefferson City, MO 65102
brian.bear@ded.mo.gov

David Cohen
1200 Rodgers Street, Suite B
Columbia, MO 65201
david@renewmo.org

David Woodsmall
807 Winston Court
Jefferson City, MO 65101
David.woodsmall@woodsmalllaw.com

Missouri Industrial Energy Consumers
Lewis Mills
221 Bolivar Street, Suite 101
Jefferson City, MO 65101-1574
lewis.mills@bryancave.com

/s/ Peggy A. Whipple
Peggy A. Whipple

Kansas Wind Project Number 1 Participation Agreement

between

Missouri Joint Municipal Electric Utility Commission

and

City of Centralia, Missouri

This Kansas Wind Project Number 1 Participation Agreement (“Agreement”) is made this 8 day of June, 2017, by and between Missouri Joint Municipal Electric Utility Commission, a body public and corporate of the State of Missouri (hereinafter “MJMEUC”) and the City of Centralia, Missouri, a municipal corporation of the State of Missouri and a member of MJMEUC (hereinafter “City”), (MJMEUC and City hereinafter referred to collectively as “Parties” or, at times, individually as “Party”).

WITNESSETH:

WHEREAS, MJMEUC is a body public and corporate organized and existing under the laws of the State of Missouri (“RSMo”); and

WHEREAS, MJMEUC was formed for the purpose of procuring electric energy and capacity for the benefit of, and pursuant to the governance and direction of, MJMEUC’s members; and

WHEREAS, MJMEUC has entered into an agreement with Grain Belt Express Clean Line LLC dated as of June 2, 2016 (the “TSA”), pursuant to which MJMEUC has rights to obtain up to 200 MW of direct-current transmission service from western Kansas to a delivery point in Missouri on the Grain Belt Express Project;

WHEREAS, MJMEUC has entered into an agreement with Iron Star Wind Project, LLC dated as of January 23, 2017 for the long-term purchase of wind energy from the Iron Star wind generation facility that is under development in western Kansas whose output would be delivered using MJMEUC’s rights under the TSA; and

WHEREAS, MJMEUC has offered City and other MJMEUC members the opportunity to participate in the benefits of the purchased wind energy and the TSA, through the Kansas Wind Project Number 1 (“KWP1”); and

WHEREAS, City wishes to participate in KWP1, pursuant to the terms and conditions set forth in this Agreement; and

WHEREAS, MJMEUC will rely on the commitments entered into by City herein in exercising MJMEUC's rights under the agreements it has entered into with Grain Belt Express Clean Line LLC and Iron Star Wind Project, LLC.

NOW, THEREFORE, in consideration of the premises, the mutual promises and agreements set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties do hereby agree as follows:

ARTICLE ONE: DEFINITIONS

- 1.1 Agreement has the meaning set forth in the first paragraph above.
- 1.2 Business Day shall mean any weekday (*i.e.*, other than Saturday or Sunday) that is not a holiday observed by banks in the State of Missouri.
- 1.3 City shall mean the City of Centralia, Missouri and its permitted successors and assigns.
- 1.4 Effective Date shall mean the date on which this Agreement is executed, as reflected on the signature page(s).
- 1.5 Environmental Attributes shall mean any and all renewable resource attributes associated with the production, purchase or sale of electricity, including green credits, offsets, emissions credits and any other environmentally related attributes that are, or in the future may be, recognized by any Governmental Authority, and that are attributable to the production, purchase or sale of renewable energy.
- 1.6 Event of Default shall have the meaning assigned to it in Section 10.1.
- 1.7 Governmental Authority shall mean any applicable federal, state, county, municipal or other government, quasi-government or regulatory authority, agency, board, body, commission, instrumentality, court or tribunal, or any political subdivision of any thereof.
- 1.8 Grain Belt Express Project shall mean the high-voltage direct-current Grain Belt Express transmission line and related facilities, planned to be constructed and used, in part, for the transmission of renewable energy located in western Kansas within the transmission system of SPP to an HVDC converter station in Missouri connected to the transmission system of MISO, and to which MJMEUC has certain rights pursuant to the TSA.
- 1.9 KWP1 shall mean MJMEUC's Kansas Wind Project Number 1, consisting of the total rights and obligations of MJMEUC under the TSA and the Wind Energy PPA.

1.10 KWP1 Committee shall mean the committee established pursuant to Section 6.1 of this Agreement.

1.11 KWP1 Participant(s) shall, at any given time, refer to (a) one or more other municipal utility members of MJMEUC who are parties to agreements then in effect with MJMEUC for the purchase and sale of wind energy and transmission service under terms and conditions substantially similar to this Agreement, and (b) MJMEUC acting on behalf of MoPEP for its share of KWP1.

1.12 Late Interest Rate shall mean, for any date, the lesser of (a) 1/365 of the sum of the per annum prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published) plus two percentage points (200 basis points) and (b) the maximum rate permitted by applicable law. In applying the Late Interest Rate, interest shall be compounded daily.

1.13 MISO shall mean the Midcontinent Independent System Operator, Inc., or its successor.

1.14 MJMEUC shall mean the Missouri Joint Municipal Electric Utility Commission, and its permitted successors and assigns.

1.15 MoPEP shall mean the Missouri Public Energy Pool #1, a project operated by MJMEUC pursuant to which it provides full-requirements service to certain MJMEUC members.

1.16 Participation Percentage shall mean, at any given time, the then-current percentage share of City or any other KWP1 Participant (as the context requires) of MJMEUC's KWP1 benefits and obligations, as determined in accordance with this Agreement.

1.17 Person shall mean an individual, a corporation, a partnership, a limited liability company, an association, a joint-stock company, a trust, an unincorporated organization or any government or political subdivision thereof.

1.18 SPP shall mean the Southwest Power Pool, Inc., or its successor.

1.19 Term shall mean the period in which this Agreement is in effect as set forth in Article Two.

1.20 Transfer shall have the meaning assigned to it in Section 8.1.

1.21 Transferee shall mean a Person to whom a Transfer is permitted and to whom a Transfer is made or proposed to be made, pursuant to Article Eight.

1.22 Transferor shall mean a Party making or proposing to make a Transfer to another Person pursuant to Article Eight.

1.23 True-Up Interest Rate shall mean, for any date, the lesser of (a) 1/365 of the per annum prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published) and (b) the maximum rate permitted by applicable law. In applying the True-Up Interest Rate, interest shall be compounded daily.

1.24 TSA shall have the meaning assigned to it in the recitals.

1.25 Wind Energy PPA shall mean (a) the agreement entered into by MJMEUC with Iron Star Wind Project, LLC dated as of January 23, 2017 for the long-term purchase of certain capacity and associated energy from the 300 MW Iron Star wind generation facility that is currently under development, and (b) if applicable, any agreement for the purchase of wind energy to be delivered from Kansas to MISO pursuant to MJMEUC's transmission rights under the TSA that may be entered into by MJMEUC to replace any portion of the original wind energy purchase agreement during the Term hereof; in all cases the references to Wind Energy PPA shall include all attachments, schedules, appendices and the like, and shall mean such agreement as it is amended and in effect from time to time.

1.26 Wind Generation Facility shall mean the Iron Star wind generation facility or any other wind generation facility from which MJMEUC has entitlements to energy and other products pursuant to a Wind Energy PPA.

ARTICLE TWO: TERM

2.1 Commencement of Term. This Agreement shall be effective and binding upon execution by both of the Parties as reflected on the signature page(s) below.

2.2 End of Term. This Agreement shall remain in effect until, and shall terminate upon, MJMEUC's receipt of City's payment in full of the final invoice properly rendered by MJMEUC to City under Section 5.9.

2.3 Expected Duration of KWP1. Assuming the Grain Belt Express Project is authorized and completed, the period in which energy from the Wind Generation Facility and transmission service therefor will be available for use by MJMEUC for the operation of KWP1 is expected to be approximately 20 to 25 years. However, MJMEUC has certain early termination options with respect to the TSA and the Wind Energy PPA. In the event that MJMEUC, after consultation with the KWP1 Committee, exercises any such early termination option and as a result prematurely terminates KWP1, MJMEUC will render a final invoice to City under Section 5.9 and this Agreement shall be terminated upon City's payment of such invoice.

2.4 MJMEUC Termination Option. MJMEUC may, in its sole discretion, elect to terminate this Agreement without requiring from City payment of a final invoice under Section 5.9, where the Agreement is terminated pursuant to Section 8.4 or as a result of an Event of Default by City, and MJMEUC agrees to assume, after termination, ongoing responsibility for and rights to City's Participation Percentage of KWP1; in such

event, City shall only be required to make payment to MJMEUC of invoices for charges related to the period prior to the termination of this Agreement. Upon termination, each Party shall be released from all of its obligations under this Agreement other than those obligations arising prior to such termination and those obligations which survive termination of this Agreement pursuant to Section 13.12.

ARTICLE THREE: RELATIONSHIP TO OTHER CONTRACTS

3.1 Agreements with Other KWP1 Participants. Except for the identity of the participants and their Participation Percentages, this Agreement is and shall remain identical to the agreements between MJMEUC and all other member city KWP1 Participants.

3.2 Relationship to TSA and Wind Energy PPA. MJMEUC's rights and obligations and other terms and conditions of its use of the Grain Belt Express Project are governed by the TSA. MJMEUC's rights and obligations and other terms and conditions of its use of the output of any Wind Generation Facility are governed by the applicable Wind Energy PPA. The Parties acknowledge that the terms of the TSA and Wind Energy PPA, and MJMEUC's exercise of rights under the TSA and Wind Energy PPA, will affect the Parties' rights and obligations hereunder. For example, if MJMEUC is required to provide a cash deposit, letter of credit or other form of credit support pursuant to the TSA or Wind Energy PPA, City shall be responsible for its Participation Percentage of the cost of any such requirement. The Parties recognize and agree that the terms of this Agreement (and the other member city KWP1 Participants' agreements with MJMEUC) shall be amended as necessary and/or appropriate to take into account any changes to or exercises of rights under the TSA and/or Wind Energy PPA, and the Parties agree to make such amendments.

3.3 Relationship to MISO Markets. The Parties agree that this Agreement is premised on the continuing ability of MJMEUC to operate KWP1 within the context of the centralized capacity, energy and ancillary services markets operated by MISO. If, during the Term, the delivery point under the TSA by which energy from the Wind Energy Facility is transmitted will no longer be located in MISO, or if the City's load will no longer be located within MISO, or if for any other reason the operation of KWP1 will no longer be conducted within the centralized markets operated by MISO, then the Parties agree to undertake in good faith negotiations to amend this Agreement to provide for physical delivery to the City of its Participation Percentage of the products available under the Wind Energy PPA, or otherwise to provide City with its Participation Percentage of the benefits of KWP1 through means consistent with then-applicable tariffs.

3.4 No Ownership Interest Conveyed. This Agreement does not create any ownership rights on the part of City with respect to the Grain Belt Express Project or any Wind Generation Facility.

3.5 No Rights to TSA Delivery Rights to PJM. The Parties expressly acknowledge that KWP1 does not include, and therefore this Agreement provides City no

rights to, any use of MJMEUC's rights under the TSA to deliver certain quantities of energy to PJM Interconnection, L.L.C. All references to MJMEUC's entitlements under the TSA shall be limited to MJMEUC's rights thereunder to deliver energy to MISO, in the amounts necessary to transmit energy to which MJMEUC is entitled under the Wind Energy PPA.

ARTICLE FOUR: KWP1 OPERATIONS AND CITY PARTICIPATION

4.1 City's Participation Percentage. The total size of KWP1 is expected to be one hundred thirty six megawatts (136 MW), based on the total expected participation of all KWP1 Participants. City's Participation Percentage shall be 0.74%, subject to adjustment as provided for in this Agreement. The Parties intend that City's Participation Percentage hereunder will entitle it to the benefits (and commit City to the obligations) of one megawatt (1 MW) of transmission capacity under the TSA and energy and associated products (including any accredited capacity) from one megawatt (1 MW) of the nameplate capacity of the Wind Generation Facility. If the actual size of KWP1 is less than or more than 136 MW at the time MJMEUC designates its "Buyer's Share" pursuant to Section 3.1 of the Wind Energy PPA with Iron Star Wind Project, LLC (e.g., due to fewer participants or lower MW levels of participation than expected, or additional participants joining the project), City's Participation Percentage shall be automatically recalculated as the ratio of City's one megawatt (1 MW) to the total actual size of KWP1, converted to a percentage. MJMEUC will update, periodically as necessary, the Participation Percentages of City and all other KWP1 Participants in an exhibit attached to this Agreement, provided, however, that such exhibit is for purely informational purposes and will not be deemed to preempt the actual and automatic calculation of Participation Percentages pursuant to this Agreement (including, without limitation, this Section 4.1, Section 8.4 and Section 10.5).

4.2 Operation of KWP1. MJMEUC shall conduct the operations of KWP1 by (a) performing its obligations under the TSA and Wind Energy PPA, (b) making sales of all wind energy and other products available under the Wind Energy PPA into the applicable markets operated by MISO (except as otherwise provided herein), and (c) allocating the revenues received and costs incurred by MJMEUC (including administrative costs) in conducting such activities among City and the other KWP1 Participants as provided herein.

4.3 MISO Operations

(a) If the seller under any Wind Energy PPA does not act as (or contract with a third party to act as) the Market Participant (as such term is defined in MISO's tariff) for all energy and ancillary services available under such Wind Energy PPA, then MJMEUC shall act as the Market Participant for such purposes. In such case, MJMEUC will offer such products into the MISO market and settle with MISO for all such transactions, and MJMEUC's offer strategies will consider input from the KWP1 Committee, but MJMEUC shall retain full discretion to make such offers as it deems appropriate. The Parties acknowledge that (i) MJMEUC's offers of energy and ancillary services available

under the Wind Energy PPA must at all times abide by any applicable scheduling and other terms of the Wind Energy PPA, and (ii) there may be times when the Market Participant (whether that is MJMEUC, the seller, or a third party contracted by the seller) is likely to offer and sell such energy in the MISO markets at a negative price (i.e., the Market Participant would be obligated to pay MISO to take the energy if the offer is cleared in the market).

(b) All revenues and costs related to energy and ancillary services transactions in MISO in connection with the Wind Energy PPA (whether received by MJMEUC directly from MISO where MJMEUC is the Market Participant or received by MJMEUC from the seller under the terms of the Wind Energy PPA) will be allocated among the KWP1 Participants based on their Participant Percentages, subject to Section 10.3 and other relevant provisions of Article Ten if City is in default under this Agreement. MJMEUC shall distribute to City its share of net MISO revenues from sales of energy and ancillary services available from the Wind Energy PPA (or, if a net payment is due to MISO for such energy and ancillary services in a given settlement period, the City shall pay to MJMEUC), to an account and in a manner (e.g., electronic funds transfer) agreed upon by the Parties. During any period in which MJMEUC is the Market Participant for purposes of any Wind Energy PPA and receives associated net revenues from MISO, MJMEUC shall use commercially reasonable efforts to make payments to City pursuant to this Section 4.3(b) within five (5) Business Days after MJMEUC receives such net revenues from MISO.

(c) If the seller under any Wind Energy PPA does not act as (or contract with a third party to act as) the Market Participant for purposes of Module E-1 of the MISO tariff with respect to any accredited capacity available under such Wind Energy PPA, then MJMEUC shall act as the Market Participant for such purposes. In such case, MJMEUC will use commercially reasonable efforts to convert such capacity to Zonal Resource Credits (ZRCs) (as such term is defined in the MISO tariff) or equivalent product under the applicable provisions of the MISO tariff. As to all ZRCs associated with the Wind Energy PPA that are received by MJMEUC either directly from MISO or from the seller under the terms of the Wind Energy PPA, except for any ZRCs as to which any KWP1 Participant(s) properly exercised the election under Section 4.3(d) for a given MISO planning year, MJMEUC will (i) offer to sell the ZRCs in the MISO capacity auction in accordance with the MISO tariff, and (ii) settle with MISO for the sale of all such ZRCs that clear in the auction. MJMEUC's offer strategies will consider input from the KWP1 Committee, but MJMEUC shall retain full discretion to make such offers as it deems appropriate. Net revenues received by MJMEUC from sales of such ZRCs in the MISO capacity auction shall be distributed among the KWP1 Participants in accordance with Section 4.3(e).

(d) If City wishes to have MJMEUC transfer a share of the ZRCs to City rather than distribute to City a share of the revenues from MJMEUC's sale of the ZRCs available under the Wind Energy PPA, City shall provide notice of its election to MJMEUC no later than thirty (30) days prior to the Fixed Resource

Adequacy Plan deadline as established in the MISO tariff (or any equivalent successor deadline) for the first MISO planning year in which City wishes to receive a transfer of ZRCs in lieu of a distribution of ZRC revenues. Thereafter, MJMEUC will assume City's election remains in place for subsequent MISO planning years unless City provides a notice to change its election no later than thirty (30) days prior to the Fixed Resource Adequacy Plan deadline as established in the MISO tariff (or any equivalent successor deadline) for the first MISO planning year in which City wishes to revert to receiving a revenue distribution.

(e) For each MISO planning year in which City did not elect to receive a transfer of ZRCs in lieu of revenue distribution, MJMEUC shall pay to City its allocable share of net revenues received by MJMEUC from MISO from the sale of ZRCs available under the Wind Energy PPA, subject to Section 10.3 and other relevant provisions of Article Ten if City is in default under this Agreement. For purposes of such distribution, in any planning year in which no KWP1 Participant elected to receive a transfer of ZRCs in lieu of revenue distribution, City's allocable share of the net ZRC revenues shall be its Participation Percentage. In any planning year in which one or more KWP1 Participants elected to receive a transfer of ZRCs in lieu of revenue distribution, City's allocable share of the net ZRC revenues shall be the ratio of its Participation Percentage to the total Participation Percentages of the KWP1 Participants who did not elect to receive a transfer of ZRCs in lieu of revenue distribution for that planning year. MJMEUC shall distribute to City its share of net revenues from sales of ZRCs available from the Wind Energy PPA, to an account and in a manner (e.g., electronic funds transfer) agreed upon by the Parties. MJMEUC shall use commercially reasonable efforts to make each such payment to City within five (5) Business Days after MJMEUC receives such net revenues from MISO.

4.4 Environmental Attributes. MJMEUC shall use commercially reasonable efforts to transfer to City its Participation Percentage of all Environmental Attributes available to MJMEUC under the Wind Energy PPA, through procedures to be developed by the KWP1 Committee. Upon request, MJMEUC will assist City with getting certification of RECs, subject to City's payment of MJMEUC's related costs. If it is not commercially practicable for MJMEUC to transfer Environmental Attributes to City, the Parties will in good faith attempt to develop an alternative mechanism to allow City to enjoy the benefits of its Participation Percentage of all Environmental Attributes available to MJMEUC under the Wind Energy PPA. To the maximum extent practicable, such alternative mechanism shall be developed by the KWP1 Committee and shall apply to all similarly situated KWP1 Participants.

4.5 Record-Keeping. MJMEUC shall maintain accurate records of the MISO market transactions related to operation of KWP1, and shall retain such records for three (3) years. Such records shall be made available to City upon request, during normal business hours.

ARTICLE FIVE: COST RESPONSIBILITY; BILLING AND PAYMENT

5.1 General Principles. It is the Parties' intention that City will be responsible for its Participation Percentage of (a) the fixed and variable costs MJMEUC incurs pursuant to the TSA, the Wind Energy PPA, and the MISO tariff with respect to settlements for energy and ancillary services transactions related to the Wind Energy PPA, and (b) MJMEUC's administrative and other reasonable costs associated with its operation of KWP1. City's obligation to pay for its appropriate share of such costs shall be effective upon the Effective Date and continue until all amounts due hereunder are paid in full notwithstanding the occurrence of any event, or the taking of any action permitted by this Agreement. The provisions that follow are intended to implement, but not to narrow, this intention.

5.2 City Responsibility For Shared KWP1 Costs. Starting with the first month following commencement of commercial operation of the Grain Belt Express Project, City shall be invoiced for and shall pay its share of transmission charges under the TSA, energy charges under the Wind Energy PPA, and MJMEUC administrative charges.

(a) Each month, City's transmission charge shall be equal to City's Participation Percentage of the sum of the following charges to MJMEUC under the TSA for the same month (with all capitalized terms not defined herein having the meanings assigned to them in Attachment 1 to the TSA): (i) the product of the Tranche 1 Contract Rate and the Tranche 1 Reserved Contract Capacity, plus (ii) the product of the Tranche 2 Contract Rate and the MW amount of the Tranche 2 Reserved Contract Capacity that is needed to serve KWP1 (i.e., the difference between the total KWP1 project capacity and the Tranche 1 Reserved Contract Capacity). Such transmission charges will be due in full irrespective of the quantity of wind energy (if any) available under the Wind Energy PPA in such month. City shall be obligated to continue making monthly transmission payments to MJMEUC for the duration of MJMEUC's payment obligations under the TSA.

(b) Each month, City's estimated energy charge shall be calculated by multiplying (i) the current month's per-megawatt-hour rate for energy under the Wind Energy PPA by (ii) City's Participation Percentage of the nameplate capacity amount purchased by MJMEUC under the Wind Energy PPA for the same month and by (iii) the number of hours in the month. If MJMEUC will, in the applicable month, purchase energy pursuant to multiple Wind Energy PPAs, the estimated energy charge to the City shall be the sum of the values calculated in accordance with the preceding sentence for each Wind Energy PPA. The estimated energy charge for each month shall be trued up as soon thereafter as reasonable practicable, to reflect City's Participation Percentage of the actual charges paid by MJMEUC under the Wind Energy PPA for the applicable month; any overpayments by City shall be credited on the next monthly invoice provided to City, and any underpayments shall be added to the next monthly invoice provided to City.

(c) City's administrative charges each month shall be (i) an amount equal to the product of City's MW share of KWP1 (as set forth in Section 4.1) and a rate per MW-month established by MJMEUC from time to time based on MJMEUC's KWP1 budget, plus (ii) where applicable, City's Participation Percentage of MJMEUC's costs incurred in the prior month that are related to KWP1 but were not included in the KWP1 budget. Budgeting of KWP1 costs shall be determined by the MJMEUC Board of Directors with due consideration of any input from members of the KWP1 Committee (or, if action by the Board of Directors is not reasonably achievable in a timely manner, by the MJMEUC Executive Committee). MJMEUC shall provide budgets and cost information to support the determination of KWP1 cost allocations.

5.3 City-Specific Cost Responsibility. In addition, MJMEUC shall include on City's invoice appropriate charges for any service provided by MJMEUC to City in connection with its participation in KWP1 beyond those services provided by MJMEUC generally to the KWP1 Participants. Such charges shall include, without limitation, costs of assisting City to obtain certification of Environmental Attributes pursuant to Section 4.4.

5.4 Timing and Method of Invoices. MJMEUC shall prepare and render monthly invoices for the charges described in Sections 5.2 and 5.3 and deliver each monthly invoice by e-mail to the City on or before the fifth Business Day of the month.

5.5 Timing and Method of Payments. City shall pay the invoiced amount by the 15th day of the month (provided, however, that the City shall not have less than seven (7) Business Days after issuance of the invoice in which to make its payment), via a bank wire transfer or ACH debit to MJMEUC's bank account in accordance with the instructions provided in writing by MJMEUC. Interest shall be payable on all amounts not paid on or before the payment due date, over the actual number of days elapsed from the payment due date to the date such amounts are paid, at the Late Interest Rate.

5.6 Disputes. If City disputes any bill issued hereunder or the existence or extent of any obligation to make any payment hereunder, it shall nevertheless make payment of all bills when due in full with a written protest, submitted at the time of or subsequent to such payment, directed to MJMEUC. Any such protest shall be subject to the limitations set forth in Section 5.8. When any dispute regarding payment is resolved, any refunds due shall be paid (or credited) within ten (10) days thereafter, together with interest at the True-Up Interest Rate, based upon the actual number of days elapsed from the date paid until the date refunded or offset.

5.7 Audits. Not more than once a year, one or more of the KWP1 Participants may conduct an audit of (i) records maintained by MJMEUC in conjunction with its operation of KWP1, and (ii) all costs charged to each KWP1 Participant. If City wishes to initiate such an audit, it shall offer the other KWP1 Participants the opportunity to participate. The costs of any such audit shall be borne by the KWP1 Participants that agreed to participate in the audit, either directly or through reimbursement to MJMEUC. MJMEUC shall cooperate with one such audit in a given year, by making available

documents and other information reasonably requested in connection therewith, during normal business hours.

5.8. Restriction on Challenges. No challenge may be raised by City with respect to the validity of costs incurred by MJMEUC under the TSA or any Wind Energy PPA (including challenges to the correctness and/or prudence of such costs) except to the extent that MJMEUC can in turn raise the challenge under the applicable agreement, and the resolution of any such challenge under the applicable agreement shall be dispositive as between City and MJMEUC. MJMEUC agrees that in the event City raises such an issue within the time permitted for MJMEUC to raise that issue under the TSA or any Wind Energy PPA, MJMEUC will raise the challenge under the applicable agreement. The costs MJMEUC incurs in pursuing all such challenges will be included in the administrative costs allocated to KWP1.

5.9 Final Invoice and Payment. Within ten (10) Business Days after the date as of which KWP1 has been terminated and MJMEUC's final payments (if any) under the TSA (to the extent related to KWP1) and all Wind Energy PPAs have been made, MJMEUC shall prepare and present to City a final invoice for City's contractual share of MJMEUC's costs incurred in connection with KWP1 for which MJMEUC has not been previously reimbursed. City shall submit payment of its final invoice within ten (10) Business Days.

5.10 Unconditional Nature of Payment Obligation. All amounts payable by City under this Agreement shall be due whether or not any Wind Generation Facility is operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and whether or not any energy or other products available under the Wind Energy PPA have been sold into the applicable MISO markets. City's payments hereunder shall not be subject to any reduction, whether by offset, counterclaim, recoupment or otherwise, and shall not be conditioned upon the performance or nonperformance of MJMEUC or any other person under this Agreement or any other agreement for any cause whatsoever.

ARTICLE SIX: INFORMATION

6.1 KWP1 Committee. MJMEUC shall communicate information regarding KWP1 to City and other KWP1 Participants, and will provide such parties the opportunity to advise the MJMEUC Board of Directors and staff regarding KWP1 matters, through a new KWP1 Committee, whose members will consist of representatives of member city KWP1 Participants and members of MoPEP. The KWP1 Committee will make recommendations and decisions on actions to be taken by MJMEUC under the TSA and Wind Energy PPA. All decisions of the MJMEUC Board of Directors regarding KWP1 shall give due weight to recommendations made by the KWP1 Committee.

6.2 Provision of Information Obtained Under the TSA and Wind Energy PPA. The Parties recognize that MJMEUC's ability to obtain information about the Grain Belt Express Project and the Wind Generation Facility to provide to City will be governed by the TSA and the Wind Energy PPA, respectively. MJMEUC shall, while respecting any

confidentiality provisions or other restrictions to which MJMEUC is subject under the applicable contracts, provide information to the KWP1 Committee regarding expected operational changes affecting KWP1. City hereby agrees to abide by all such restrictions on the use of confidential KWP1 information it obtains hereunder. Nothing in this Agreement shall be construed to prevent appropriate disclosure of information by City pursuant to its obligations under Missouri open records laws; provided, however, that City shall promptly inform MJMEUC of any open records request that may require disclosure of confidential information provided pursuant to this Agreement, in order to permit MJMEUC to notify the counterparty that originally provided the information so that it may seek to protect the confidentiality of its information.

6.3 MJMEUC Budgets. MJMEUC's projected costs of operating KWP1 shall be included in a KWP1 annual budget which shall be incorporated in MJMEUC's annual budget. City shall have the right to review and have input on the KWP1 annual budget via the KWP1 Committee.

ARTICLE SEVEN: LIABILITY AND INDEMNIFICATION

7.1 General Indemnification of MJMEUC. City expressly agrees, to the fullest extent permitted by law, to indemnify, hold harmless and defend MJMEUC against any and all claims, liability, costs or expenses (including without limitation attorneys' fees and expenses) for loss, damage or injury to persons or property in any manner directly or indirectly connected with or growing out of MJMEUC's role as the operator and administrator of KWP1, unless such loss, damage or injury is the result of bad faith, gross negligence, or reckless or willful misconduct of MJMEUC or its employees acting within the course and scope of their employment.

7.2 Waiver of Indirect Damages. To the fullest extent permitted by law, neither Party shall be liable to the other for punitive, indirect, exemplary, consequential, or incidental damages arising in connection with this Agreement.

ARTICLE EIGHT: ASSIGNMENT

8.1 General Limitations on Transfers. Except as otherwise provided in this Article Eight, neither Party may sell, lease, assign, transfer, convey or otherwise dispose of in any manner, directly or indirectly (collectively, "Transfer") all or any part of its rights, obligations, benefits, advantages, titles and interest in this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed, and any such Transfer in contravention of this Article Eight shall be null and void *ab initio*. For purposes of this Section 8.1, any ground that is reasonably likely to have an adverse effect on the non-transferring Party may constitute a ground for withholding or conditioning its consent and shall be described to the Transferor in reasonable detail if consent is denied.

8.2 Notice of Proposed Transfer. If a Party desires to Transfer its interest in this Agreement, then no less than 90 days prior to such proposed Transfer, the Transferor

shall provide written notice thereof to the other Party. The notice shall identify the proposed Transferee and the date on which the Party proposes to effect the Transfer.

8.3 Transfers by MJMEUC. In connection with any transfer by MJMEUC of its obligations and interests in the TSA (to the extent being utilized for KWP1) and/or the Wind Energy PPA, MJMEUC shall assign this Agreement and Transfer all of its rights and obligations hereunder to such entity. MJMEUC shall not be required to obtain City's consent for any such Transfer. MJMEUC may also assign its interest in this Agreement to a trustee or other Person as is necessary in connection with any bond financing of MJMEUC, and shall not be required to provide advance notice to City of, or obtain City's consent to, any such assignments made for financing purposes.

8.4 Transfers by City. If City proposes to Transfer its interest in this Agreement, MJMEUC shall, if permitted by the provisions of any applicable bond indenture, have the right to terminate this Agreement effective as of the proposed Transfer date, with the result that MJMEUC re-acquires City's Participation Percentage of KWP1, and that City is released from its obligations hereunder, effective as of the date of termination pursuant to Section 2.2. If MJMEUC chooses to exercise this right, it shall provide notice of its election to City no later than fifteen (15) days after receiving the notice provided by City pursuant to Section 8.2. If MJMEUC chooses not to exercise this right, the proposed Transfer may go forward if MJMEUC consents. The Parties acknowledge and agree that any such consent may reasonably be conditioned on such matters as the Transferee's creditworthiness. If City Transfers any portion of its project share to another KWP1 Participant or if MJMEUC exercises its option to terminate this Agreement and re-acquire City's project share, MJMEUC shall prepare a revised informational exhibit reflecting the revised Participation Percentages resulting from the transaction.

8.5 Conditions Required for Permitted Transfers. As a condition precedent to any permitted Transfer hereunder:

(a) at the time of the Transfer, either (i) the Transferor must not be in default of any of its material obligations under this Agreement or (ii) such default must be cured on or prior to the date of the Transfer; and

(b) the Transferor shall deliver to the other Party documents satisfactory to it evidencing Transferee's acceptance of the Transfer and assumption of all of the Transferor's obligations under this Agreement.

8.6 Prohibited Transfers. Notwithstanding anything in this Article Eight, no Transfer of this Agreement will be permitted if it would jeopardize the tax-exempt status of any of MJMEUC's bonds.

ARTICLE NINE: DISPUTE RESOLUTION

9.1 Dispute Notice. If a dispute arises between the Parties, then the aggrieved Party may provide written notice thereof to the other Party, including a detailed description of the subject matter of the dispute.

9.2 Negotiations. Representatives of the Parties shall in good faith attempt to resolve such dispute by informal negotiations within ten (10) Business Days from the date of receipt of a dispute notice under Section 9.1.

9.3 Involvement of Senior Executives. If the dispute is not resolved within ten (10) Business Days following receipt of the dispute notice or such later date as the Parties may mutually agree, then each Party shall promptly designate its most senior executive responsible for the subject matter of the dispute who shall have authority to resolve the dispute. The senior executives shall obtain such information as may be necessary to inform themselves of the substance and particulars of the dispute and shall meet within twenty (20) Business Days, at a time and place mutually acceptable to the senior executives.

9.4 Arbitration. If the senior executives are unable to resolve the dispute within twenty (20) Business Days of their first meeting or such later date as the senior executives may mutually agree, then the dispute shall, subject to Section 9.5, be resolved solely and exclusively by binding arbitration, using the following procedures (absent agreement of the Parties to different procedures).

(a) The arbitration shall be conducted before a panel of three arbitrators in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect, except as modified herein. The Party seeking relief from the other Party shall prepare and submit a request for arbitration (the "Demand"), which will include statements of the facts and circumstances surrounding the dispute, the legal obligation breached by the other Party, the amount in controversy and the requested relief. The Demand shall be accompanied by all relevant supporting documents.

(b) Unless the dispute uniquely affects just one KWP1 Participant, each other KWP1 Participant (excluding MJMEUC in its role as operator of MoPEP) that wishes to participate in the arbitration shall, for purposes of a particular arbitration, declare which Party it supports. In applying the provisions of this Section 9.4, each reference to a "Party" will be deemed to include all aligned KWP1 Participants, and the aligned KWP1 Participants shall act in a collective manner to exercise their rights and fulfill their obligations hereunder. A KWP1 Participant that elects not to participate will nonetheless be bound by the outcome of the arbitration.

(c) Arbitration shall be held in Columbia, Missouri. The arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. §§ 1 et seq.

(d) The Party asserting a claim for relief and the Party opposing such relief shall each select one arbitrator within ten (10) days of the receipt of the Demand, or if such Party fails to make such selection within ten (10) days from the receipt of the Demand, the AAA shall make such appointment upon the written request of the other Party. The two arbitrators thus appointed shall select the third arbitrator, who shall act as the chairman of the panel. If the two

arbitrators fail to agree on a third arbitrator within thirty (30) days of the selection of the second arbitrator, the AAA shall make such appointment.

(e) The award shall be in writing (stating the award and the reasons therefor) and shall be final and binding upon the Parties, and shall be the sole and exclusive remedy regarding any claims, counterclaims, issues, or accountings presented to the arbitration panel. The arbitration panel shall be authorized in its discretion to grant pre-award and post-award interest at commercial rates. Judgment upon any award may be entered in any court having jurisdiction.

(f) This Agreement and the rights and obligations of the Parties shall remain in full force and effect pending the award in any arbitration proceeding hereunder.

(g) Unless otherwise ordered by the arbitrators, each Party shall bear its own costs and fees, including attorneys' fees and expenses. The Parties expressly agree that the arbitrators shall have no power to consider or award any form of damages barred by Section 7.2, or any other multiple or enhanced damages, whether statutory or common law.

(h) Each Party understands that it will not be able to bring a lawsuit concerning the affected dispute, except as necessary to enforce this Section 9.4 or an arbitration award.

9.5 Agency Jurisdiction. Notwithstanding anything to the contrary in Section 9.4, the Parties acknowledge and agree that a dispute over which a Governmental Authority has exclusive jurisdiction shall, in the first instance, be brought before and resolved by such Governmental Authority.

ARTICLE TEN: DEFAULT AND REMEDIES

10.1 Events of Default. The following shall be Events of Default under this Agreement:

(a) The failure of City to make a payment when due under this Agreement, which has not been cured within five (5) days after notice of such non-payment has been provided by MJMEUC (a "Payment Default"); or

(b) The failure of a Party to perform or abide by any material obligation under this Agreement, other than payment, within 60 days of receipt of written notice of non-performance; *provided, however*, that if such default cannot be cured within such 60-day period, no Event of Default shall occur for so long as the non-performing Party is diligently pursuing a cure, and such non-performance is curable; or

(c) The commencement, with respect to a Party, by such Party or by another person or entity of a bankruptcy, reorganization, moratorium, liquidation or similar insolvency proceeding or other relief under any bankruptcy or

insolvency law affecting creditors' rights or a petition is presented or instituted for its winding-up or liquidation.

10.2 Remedies. If a Party fails to perform or breaches any of its material obligations under this Agreement, then the non-defaulting Party shall be entitled to exercise all remedies available to it at law or in equity (except as limited in Section 10.6). The Parties acknowledge and agree that monetary damages may not be an adequate remedy at law for the failure of a Party to perform certain material obligations under this Agreement, and under such circumstances, the non-defaulting Party shall have the right to specific performance by the defaulting Party of such obligations under this Agreement.

10.3 Suspension of MISO Revenues. If City has committed a Payment Default, MJMEUC may temporarily suspend City's right to receive its share of MISO revenues under Article Four. Such suspension shall continue until the earlier of (i) City shall have cured such Payment Default or (ii) City's entitlement share has been permanently transferred or sold in accordance with Section 10.5.

10.4 Termination of Participation. If City fails to cure a Payment Default within sixty (60) days after notice of City's non-payment has been provided by MJMEUC, City's participation in KWP1 shall immediately and permanently be terminated; provided, however, City's obligation to make payments under this Agreement shall not be eliminated or reduced except to the extent provided in Section 10.5. MJMEUC shall promptly provide notice of any such termination to all KWP1 Participants.

10.5 Disposition of Defaulting Participant's Share of Project. In the event another KWP1 Participant's rights are terminated pursuant to Section 10.4 of its parallel agreement, MJMEUC shall undertake or cause to be undertaken the following actions in the order indicated:

(a) MJMEUC shall offer to increase the Participation Percentage of each KWP1 Participant who is not in default to allow it to acquire a pro-rata portion of the defaulting KWP1 Participant's terminated share of the project. Any part of such project share of a defaulting KWP1 Participant which shall be declined by any non-defaulting KWP1 Participant shall be reoffered pro rata to the non-defaulting KWP1 Participants which have accepted in full the first such offer. Such reoffering shall be repeated until such defaulting KWP1 Participant's share shall have been reallocated in full or until all non-defaulting KWP1 Participants shall have declined to take any additional portion of such defaulting KWP1 Participant's share.

(b) In the event less than all of a defaulting KWP1 Participant's project share shall be accepted pursuant to Section 10.5(a), MJMEUC shall use its reasonable best efforts to transfer the remaining portion of a defaulting KWP1 Participant's project share for the remaining term of KWP1 to any person, firm, association or corporation, public or private. In the event of a default and

discontinuance of service under any agreement for such transfer, that project share shall be offered and transferred as provided for in this Section 10.5.

(c) In the event that less than all of a defaulting KWP1 Participant's project share is disposed of pursuant to the methods provided for in Sections 10.5(a) and (b), the Participation Percentage of each non-defaulting KWP1 Participant (for the sake of clarity, including any new KWP1 Participants under Section 10.5(b) and MJMEUC in its role as a KWP1 Participant on behalf of MoPEP) shall be increased by an amount equal to the product of (i) the remaining project share not already disposed of pursuant to Sections 10.5(a) and (b) times (ii) the non-defaulting KWP1 Participant's original Participation Percentage divided by the total original Participation Percentages of all non-defaulting KWP1 Participants. In no event shall such increase result in a transferee KWP1 Participant having a Participation Percentage in excess of 200% of its original Participation Percentage without the prior consent of the transferee KWP1 Participant. If operation of this section would have such result and the transferee KWP1 Participant does not consent, the other non-defaulting KWP1 Participants shall have their project shares increased in proportion to their original Participation Percentages, subject to the cap of 200%.

(d) In the event that less than all of a defaulting KWP1 Participant's project share shall be disposed of pursuant to Sections 10.5(a), (b) or (c), MJMEUC shall use its reasonable best efforts to transfer the remaining portion of a defaulting KWP1 Participant's share on such terms and conditions as are acceptable to MJMEUC to any person, firm, association or corporation, public or private.

(e) City shall remain liable under this Agreement in all events absent outright termination of this Agreement by MJMEUC in its sole discretion and subject to the provisions of any applicable bond indenture, except that City's obligation to pay MJMEUC shall be reduced to the extent that payments shall be received by MJMEUC for that portion of City's share disposed of as provided in this Section 10.5.

10.6 No Termination by City. In response to any Event of Default by MJMEUC, City shall not have the right to terminate this Agreement.

10.7 No Liability of MJMEUC Relating to Provision of Information. Notwithstanding any provision to the contrary contained in this Agreement, the Parties acknowledge and agree that MJMEUC shall not be liable for monetary damages to City arising from or in connection with any reports, notices, certificates, documents, information or data of any kind or nature (whether or not prepared by or on behalf of MJMEUC) provided to City pursuant to or in connection with this Agreement.

ARTICLE ELEVEN: REPRESENTATIONS AND WARRANTIES

11.1 MJMEUC's Representations. MJMEUC hereby makes the following representations, warranties and covenants to City as of the Effective Date and through the end of the Term:

(a) MJMEUC is a governmental entity and body public and corporate duly organized, validly existing and in good standing under the laws of the State of Missouri, and has the legal power to enter into this Agreement 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 Agreement.

(b) The execution, delivery and performance by MJMEUC of this Agreement have been duly authorized by all necessary action.

(c) This Agreement constitutes the legal, valid and binding obligation of MJMEUC, enforceable in accordance with its terms.

(d) There is no pending, or to the knowledge of MJMEUC, threatened action or proceeding affecting MJMEUC before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof. Notwithstanding the foregoing, MJMEUC's sole continuing covenant with respect to this Section 11.1(d) shall be to take all necessary and reasonable actions to defend the enforceability and validity of this Agreement and aggressively defend any lawsuit involving or related to this Agreement.

11.2 City's Representations. City hereby makes the following representations, warranties and covenants to MJMEUC as of the Effective Date and through the end of the Term:

(a) City is a municipality and political subdivision of the State of Missouri, and has the legal power to enter into this Agreement 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 Agreement.

(b) The execution, delivery and performance by City of this Agreement have been duly authorized by all necessary action.

(c) This Agreement constitutes the legal, valid and binding obligation of City, enforceable in accordance with its terms.

(d) There is no pending, or to the knowledge of City, threatened action or proceeding affecting City before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof. Notwithstanding the foregoing, City's sole continuing covenant with respect to this Section 11.2(d) shall be to take all necessary and reasonable

actions to defend the enforceability and validity of this Agreement and aggressively defend any lawsuit involving or related to this Agreement.

(e) City is and shall remain throughout the term of this Agreement a member or advisory member of MJMEUC.

(f) City is and shall remain throughout the term of this Agreement a "political subdivision" of the state of Missouri within the meaning of Section 103(a) of the Internal Revenue Code.

(g) City will establish, maintain and collect such rates, fees and charges for the electric service of its electric utility system so as to provide revenues at least sufficient to enable City to make all payments required to be made by it under this Agreement and any other agreements with respect to its electric utility.

(h) The obligations of City to make payments under this Agreement shall be limited to the obligation to make payments from revenues of its electric utility system and available electric utility system reserves. All payments made by City pursuant to this Agreement shall constitute operation and maintenance expenses of its electric utility system. The City shall not be obligated to levy any taxes for the purpose of paying any amount due under this Agreement. The City shall not issue any evidence of indebtedness with a lien on electric system revenues that is prior to the payment of operating and maintenance expenses.

(i) The City covenants to maintain its electric system in good repair in accordance with Good Utility Practice, to cooperate with MJMEUC, and to keep accurate records and accounts.

(j) The City shall not sell, lease or otherwise dispose of all or substantially all of its electric system, nor shall the City assign all or any part of its Pro-Rata Share or any or all of its interests under this Agreement, except upon the approval of MJMEUC pursuant to Article Eight, such approval not to be unreasonably withheld or delayed.

(k) The City shall not operate its system in any manner or for any purpose, or take or omit to take any action which could, either alone or in conjunction with any other similar actions by the City or other KWP1 Participants, result in loss of the exclusion from gross income for federal income tax purposes of the interest on any bonds issued or thereafter issuable by MJMEUC.

ARTICLE TWELVE: CREDITWORTHINESS

City shall provide such financial information and operating data (i) as MJMEUC is required to obtain from City under the continuing disclosure requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities

Exchange Act of 1934, as the same may be amended from time to time, or (ii) as may be necessary for MJMEUC to provide to rating agencies or its lenders from time to time.

ARTICLE THIRTEEN: MISCELLANEOUS

13.1 Applicable Law. The rights and obligations of the Parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Missouri, without regard to conflicts of law doctrines.

13.2 Jury Trial. EACH OF THE PARTIES WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS AGREEMENT AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

13.3 Notices. Unless otherwise expressly provided for in this Agreement, all communications and notices to a Party in connection with this Agreement shall be in writing, by email, and any such notice shall become effective (a) upon personal delivery thereof, including by overnight mail or next Business Day or courier service, (b) in the case of notice by United States mail, certified or registered, postage prepaid, return receipt requested, upon receipt thereof, or (c) in the case of email, upon transmission thereof, provided that in addition to such transmission a confirmation copy of the notice is also provided by either of the methods set forth in clause (a) or (b) above. All notices provided by the means described in clauses (a), (b), or (c) above shall be addressed as follows, or to such other address as any Party may designate by written notice to the other Parties.

For notice to MJMEUC:

Missouri Joint Municipal Electric Utilities Commission
1808 I-70 Dr. SW
Columbia, MO 65203
Attention: General Manager and CEO

With a copy to: contractnotices@mpua.org

For notice to City:

City of Centralia
114 S. Rollins
Centralia, MO 65240
Attention: Matt Harline, City Administrator
cityadmin@centraliamo.org

13.4 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

13.5 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law; but if any provision of this Agreement shall be prohibited by or deemed invalid under any applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

13.6 Parties Bound. This Agreement shall be binding upon the Parties and their respective successors and permitted assigns.

13.7 Third-Party Beneficiaries. Except as expressly provided herein, none of the provisions of this Agreement are intended for the benefit of any Person other than the Parties, their respective successors and permitted assigns.

13.8 Entire Agreement. This Agreement states the rights of the Parties with respect to the transactions contemplated by this Agreement and supersedes all prior agreements, oral or written, with respect thereto.

13.9 Headings and Table of Contents. Section headings and the table of contents used in this Agreement (including headings used in any schedules, addenda annexes and/or exhibits attached hereto) are for convenience of reference only and shall not affect the construction of this Agreement.

13.10 Schedules and Addenda. The Schedules and Addenda together with all attachments referenced therein, are incorporated herein by reference and made a part hereof.

13.11 Amendments and Waivers.

(a) This Agreement may not be amended, supplemented or otherwise modified, other than pursuant to an instrument or instruments in writing executed by the Parties.

(b) No waiver by either Party of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature. Any delay, less than any applicable statutory period of limitations, in asserting or enforcing any rights under this Agreement shall not be deemed a waiver of such rights. Failure of either Party to enforce any provisions hereof shall not be construed to waive such provision, or to affect the validity of this Agreement or any part thereof, or the right of the Party thereafter to enforce each and every provision thereof.

13.12 Survival. Except for Articles Seven, Nine and Ten, the confidentiality requirements in Section 6.2, and Article Five (to the extent applicable to obligations arising prior to termination), which shall survive termination of this Agreement, and except as otherwise expressly provided in this Agreement, the representations, warranties and obligations of each Party contained in this Agreement shall not survive the termination of this Agreement either in its entirety or as to a particular Party in accordance with its terms.

13.13 Further Assurances. Each Party shall promptly and duly execute and deliver such further documents and assurances for and take such further actions reasonably requested by the other Parties, all as may be reasonably necessary to carry out the purposes of this Agreement.


IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed and delivered under seal by its duly authorized representative as of the date set forth below.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

MISSOURI JOINT MUNICIPAL ELECTRIC
UTILITIES COMMISSION

By: 

Name: Duncan E. Kincheloe
Title: General Manager and CEO

Attest: 

Name: Elise Buchheit
Title: Administrative Assistant

Dated: 06/08/2017

CITY OF CENTRALIA, MISSOURI

By: 

Name: Tim Grenke
Title: Mayor

Attest: 

Name: Heather Russell
Title: City Clerk

Dated: 06/01/2017



Kansas Wind Project Number 1 Participation Agreement

between

Missouri Joint Municipal Electric Utility Commission

and

City of Columbia, Missouri

This Kansas Wind Project Number 1 Participation Agreement (“Agreement”) is made this 13 day of June, 2017, by and between Missouri Joint Municipal Electric Utility Commission, a body public and corporate of the State of Missouri (hereinafter “MJMEUC”) and the City of Columbia, Missouri, a municipal corporation of the State of Missouri operating through its Water and Light Department and a member of MJMEUC (hereinafter “City”), (MJMEUC and City hereinafter referred to collectively as “Parties” or, at times, individually as “Party”).

WITNESSETH:

WHEREAS, MJMEUC is a body public and corporate organized and existing under the laws of the State of Missouri (“RSMo”); and

WHEREAS, MJMEUC was formed for the purpose of procuring electric energy and capacity for the benefit of, and pursuant to the governance and direction of, MJMEUC’s members; and

WHEREAS, MJMEUC has entered into an agreement with Grain Belt Express Clean Line LLC dated as of June 2, 2016 (the “TSA”), pursuant to which MJMEUC has rights to obtain up to 200 MW of direct-current transmission service from western Kansas to a delivery point in Missouri on the Grain Belt Express Project;

WHEREAS, MJMEUC has entered into an agreement with Iron Star Wind Project, LLC dated as of January 23, 2017 for the long-term purchase of wind energy from the Iron Star wind generation facility that is under development in western Kansas whose output would be delivered using MJMEUC’s rights under the TSA; and

WHEREAS, MJMEUC has offered City and other MJMEUC members the opportunity to participate in the benefits of the purchased wind energy and the TSA, through the Kansas Wind Project Number 1 (“KWPI”); and

WHEREAS, City wishes to participate in KWPI, pursuant to the terms and conditions set forth in this Agreement; and

WHEREAS, MJMEUC will rely on the commitments entered into by City herein in exercising MJMEUC's rights under the agreements it has entered into with Grain Belt Express Clean Line LLC and Iron Star Wind Project, LLC.

NOW, THEREFORE, in consideration of the premises, the mutual promises and agreements set forth herein and other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the Parties do hereby agree as follows:

ARTICLE ONE: DEFINITIONS

- 1.1 Agreement has the meaning set forth in the first paragraph above.
- 1.2 Business Day shall mean any weekday (*i.e.*, other than Saturday or Sunday) that is not a holiday observed by banks in the State of Missouri.
- 1.3 City shall mean the City of Columbia, Missouri, acting through its Water and Light Department, and its permitted successors and assigns.
- 1.4 Effective Date shall mean the date on which this Agreement is executed, as reflected on the signature page(s).
- 1.5 Environmental Attributes shall mean any and all renewable resource attributes associated with the production, purchase or sale of electricity, including green credits, offsets, emissions credits and any other environmentally related attributes that are, or in the future may be, recognized by any Governmental Authority, and that are attributable to the production, purchase or sale of renewable energy.
- 1.6 Event of Default shall have the meaning assigned to it in Section 10.1.
- 1.7 Governmental Authority shall mean any applicable federal, state, county, municipal or other government, quasi-government or regulatory authority, agency, board, body, commission, instrumentality, court or tribunal, or any political subdivision of any thereof.
- 1.8 Grain Belt Express Project shall mean the high-voltage direct-current Grain Belt Express transmission line and related facilities, planned to be constructed and used, in part, for the transmission of renewable energy located in western Kansas within the transmission system of SPP to an HVDC converter station in Missouri connected to the transmission system of MISO, and to which MJMEUC has certain rights pursuant to the TSA.
- 1.9 KWPI shall mean MJMEUC's Kansas Wind Project Number 1, consisting of the total rights and obligations of MJMEUC under the TSA and the Wind Energy PPA.
- 1.10 KWPI Committee shall mean the committee established pursuant to Section 6.1 of this Agreement.

1.11 KWP1 Participant(s) shall, at any given time, refer to (a) one or more other municipal utility members of MJMEUC who are parties to agreements then in effect with MJMEUC for the purchase and sale of wind energy and transmission service under terms and conditions substantially similar to this Agreement, and (b) MJMEUC acting on behalf of MoPEP for its share of KWP1.

1.12 Late Interest Rate shall mean, for any date, the lesser of (a) 1/365 of the sum of the per annum prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the most recent preceding day on which published) plus two percentage points (200 basis points) and (b) the maximum rate permitted by applicable law. In applying the Late Interest Rate, interest shall be compounded daily.

1.13 MISO shall mean the Midcontinent Independent System Operator, Inc., or its successor.

1.14 MJMEUC shall mean the Missouri Joint Municipal Electric Utility Commission, and its permitted successors and assigns.

1.15 MoPEP shall mean the Missouri Public Energy Pool #1, a project operated by MJMEUC pursuant to which it provides full-requirements service to certain MJMEUC members.

1.16 Participation Percentage shall mean, at any given time, the then-current percentage share of City or any other KWP1 Participant (as the context requires) of MJMEUC's KWP1 benefits and obligations, as determined in accordance with this Agreement.

1.17 Person shall mean an individual, a corporation, a partnership, a limited liability company, an association, a joint-stock company, a trust, an unincorporated organization or any government or political subdivision thereof.

1.18 SPP shall mean the Southwest Power Pool, Inc., or its successor.

1.19 Term shall mean the period in which this Agreement is in effect as set forth in Article Two.

1.20 Transfer shall have the meaning assigned to it in Section 8.1.

1.21 Transferee shall mean a Person to whom a Transfer is permitted and to whom a Transfer is made or proposed to be made, pursuant to Article Eight.

1.22 Transferor shall mean a Party making or proposing to make a Transfer to another Person pursuant to Article Eight.

1.23 True-Up Interest Rate shall mean, for any date, the lesser of (a) 1/365 of the per annum prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rates" on such day (or if not published on such day on the

most recent preceding day on which published) and (b) the maximum rate permitted by applicable law. In applying the True-Up Interest Rate, interest shall be compounded daily.

1.24 TSA shall have the meaning assigned to it in the recitals.

1.25 Wind Energy PPA shall mean (a) the agreement entered into by MJMEUC with Iron Star Wind Project, LLC dated as of January 23, 2017 for the long-term purchase of certain capacity and associated energy from the 300 MW Iron Star wind generation facility that is currently under development, and (b) if applicable, any agreement for the purchase of wind energy to be delivered from Kansas to MISO pursuant to MJMEUC's transmission rights under the TSA that may be entered into by MJMEUC to replace any portion of the original wind energy purchase agreement during the Term hereof; in all cases the references to Wind Energy PPA shall include all attachments, schedules, appendices and the like, and shall mean such agreement as it is amended and in effect from time to time.

1.26 Wind Generation Facility shall mean the Iron Star wind generation facility or any other wind generation facility from which MJMEUC has entitlements to energy and other products pursuant to a Wind Energy PPA.

ARTICLE TWO: TERM

2.1 Commencement of Term. This Agreement shall be effective and binding upon execution by both of the Parties as reflected on the signature page(s) below.

2.2 End of Term. This Agreement shall remain in effect until, and shall terminate upon, MJMEUC's receipt of City's payment in full of the final invoice properly rendered by MJMEUC to City under Section 5.9.

2.3 Expected Duration of KWPI. Assuming the Grain Belt Express Project is authorized and completed, the period in which energy from the Wind Generation Facility and transmission service therefor will be available for use by MJMEUC for the operation of KWPI is expected to be approximately 20 to 25 years. However, MJMEUC has certain early termination options with respect to the TSA and the Wind Energy PPA. In the event that MJMEUC, after consultation with the KWPI Committee, exercises any such early termination option and as a result prematurely terminates KWPI, MJMEUC will render a final invoice to City under Section 5.9 and this Agreement shall be terminated upon City's payment of such invoice.

2.4 MJMEUC Termination Option. MJMEUC may, in its sole discretion, elect to terminate this Agreement without requiring from City payment of a final invoice under Section 5.9, where the Agreement is terminated pursuant to Section 8.4 or as a result of an Event of Default by City, and MJMEUC agrees to assume, after termination, ongoing responsibility for and rights to City's Participation Percentage of KWPI; in such event, City shall only be required to make payment to MJMEUC of invoices for charges related to the period prior to the termination of this Agreement. Upon termination, each Party shall be released from all of its obligations under this Agreement other than those

obligations arising prior to such termination and those obligations which survive termination of this Agreement pursuant to Section 13.12.

ARTICLE THREE: RELATIONSHIP TO OTHER CONTRACTS

3.1 Agreements with Other KWPI Participants. Except for the identity of the participants and their Participation Percentages, this Agreement is and shall remain identical to the agreements between MJMEUC and all other member city KWPI Participants.

3.2 Relationship to TSA and Wind Energy PPA. MJMEUC's rights and obligations and other terms and conditions of its use of the Grain Belt Express Project are governed by the TSA. MJMEUC's rights and obligations and other terms and conditions of its use of the output of any Wind Generation Facility are governed by the applicable Wind Energy PPA. The Parties acknowledge that the terms of the TSA and Wind Energy PPA, and MJMEUC's exercise of rights under the TSA and Wind Energy PPA, will affect the Parties' rights and obligations hereunder. For example, if MJMEUC is required to provide a cash deposit, letter of credit or other form of credit support pursuant to the TSA or Wind Energy PPA, City shall be responsible for its Participation Percentage of the cost of any such requirement. The Parties recognize and agree that the terms of this Agreement (and the other member city KWPI Participants' agreements with MJMEUC) shall be amended as necessary and/or appropriate to take into account any changes to or exercises of rights under the TSA and/or Wind Energy PPA, and the Parties agree to make such amendments.

3.3 Relationship to MISO Markets. The Parties agree that this Agreement is premised on the continuing ability of MJMEUC to operate KWPI within the context of the centralized capacity, energy and ancillary services markets operated by MISO. If, during the Term, the delivery point under the TSA by which energy from the Wind Energy Facility is transmitted will no longer be located in MISO, or if the City's load will no longer be located within MISO, or if for any other reason the operation of KWPI will no longer be conducted within the centralized markets operated by MISO, then the Parties agree to undertake in good faith negotiations to amend this Agreement to provide for physical delivery to the City of its Participation Percentage of the products available under the Wind Energy PPA, or otherwise to provide City with its Participation Percentage of the benefits of KWPI through means consistent with then-applicable tariffs.

3.4 No Ownership Interest Conveyed. This Agreement does not create any ownership rights on the part of City with respect to the Grain Belt Express Project or any Wind Generation Facility.

3.5 No Rights to TSA Delivery Rights to PJM. The Parties expressly acknowledge that KWPI does not include, and therefore this Agreement provides City no rights to, any use of MJMEUC's rights under the TSA to deliver certain quantities of energy to PJM Interconnection, L.L.C. All references to MJMEUC's entitlements under the TSA shall be limited to MJMEUC's rights thereunder to deliver energy to MISO, in

the amounts necessary to transmit energy to which MJMEUC is entitled under the Wind Energy PPA.

ARTICLE FOUR: KWPI OPERATIONS AND CITY PARTICIPATION

4.1 City's Participation Percentage. The total size of KWPI is expected to be one hundred thirty six megawatts (136 MW), based on the total expected participation of all KWPI Participants. City's Participation Percentage shall be 25.74%, subject to adjustment as provided for in this Agreement. The Parties intend that City's Participation Percentage hereunder will entitle it to the benefits (and commit City to the obligations) of approximately thirty-five megawatts (35 MW, on a nameplate basis) of wind energy and associated products. If the actual size of KWPI is more than or less than 136 MW at the time MJMEUC designates its "Buyer's Share" pursuant to Section 3.1 of the Wind Energy PPA with Iron Star Wind Project, LLC (e.g., due to fewer participants or lower MW levels of participation than expected), City's Participation Percentage shall be automatically recalculated as the ratio of City's 35 MW to the total actual size of KWPI, converted to a percentage. MJMEUC will update, periodically as necessary, the Participation Percentages of City and all other KWPI Participants in an exhibit attached to this Agreement, provided, however, that such exhibit is for purely informational purposes and will not be deemed to preempt the actual and automatic calculation of Participation Percentages pursuant to this Agreement (including, without limitation, this Section 4.1, Section 8.4 and Section 10.5).

4.2 Operation of KWPI. MJMEUC shall conduct the operations of KWPI by (a) performing its obligations under the TSA and Wind Energy PPA, (b) making sales of all wind energy and other products available under the Wind Energy PPA into the applicable markets operated by MISO (except as otherwise provided herein), and (c) allocating the revenues received and costs incurred by MJMEUC (including administrative costs) in conducting such activities among City and the other KWPI Participants as provided herein.

4.3 MISO Operations

(a) If the seller under any Wind Energy PPA does not act as (or contract with a third party to act as) the Market Participant (as such term is defined in MISO's tariff) for all energy and ancillary services available under such Wind Energy PPA, then MJMEUC shall act as the Market Participant for such purposes. In such case, MJMEUC will offer such products into the MISO market and settle with MISO for all such transactions, and MJMEUC's offer strategies will consider input from the KWPI Committee, but MJMEUC shall retain full discretion to make such offers as it deems appropriate. The Parties acknowledge that (i) MJMEUC's offers of energy and ancillary services available under the Wind Energy PPA must at all times abide by any applicable scheduling and other terms of the Wind Energy PPA, and (ii) there may be times when the Market Participant (whether that is MJMEUC, the seller, or a third party contracted by the seller) is likely to offer and sell such energy in the MISO

markets at a negative price (i.e., the Market Participant would be obligated to pay MISO to take the energy if the offer is cleared in the market).

(b) All revenues and costs related to energy and ancillary services transactions in MISO in connection with the Wind Energy PPA (whether received by MJMEUC directly from MISO where MJMEUC is the Market Participant or received by MJMEUC from the seller under the terms of the Wind Energy PPA) will be allocated among the KWPI Participants based on their Participant Percentages, subject to Section 10.3 and other relevant provisions of Article Ten if City is in default under this Agreement. MJMEUC shall distribute to City its share of net MISO revenues from sales of energy and ancillary services available from the Wind Energy PPA (or, if a net payment is due to MISO for such energy and ancillary services in a given settlement period, the City shall pay to MJMEUC), to an account and in a manner (e.g., electronic funds transfer) agreed upon by the Parties. During any period in which MJMEUC is the Market Participant for purposes of any Wind Energy PPA and receives associated net revenues from MISO, MJMEUC shall use commercially reasonable efforts to make payments to City pursuant to this Section 4.3(b) within five (5) Business Days after MJMEUC receives such net revenues from MISO.

(c) If the seller under any Wind Energy PPA does not act as (or contract with a third party to act as) the Market Participant for purposes of Module E-1 of the MISO tariff with respect to any accredited capacity available under such Wind Energy PPA, then MJMEUC shall act as the Market Participant for such purposes. In such case, MJMEUC will use commercially reasonable efforts to convert such capacity to Zonal Resource Credits (ZRCs) (as such term is defined in the MISO tariff) or equivalent product under the applicable provisions of the MISO tariff. As to all ZRCs associated with the Wind Energy PPA that are received by MJMEUC either directly from MISO or from the seller under the terms of the Wind Energy PPA, except for any ZRCs as to which any KWPI Participant(s) properly exercised the election under Section 4.3(d) for a given MISO planning year, MJMEUC will (i) offer to sell the ZRCs in the MISO capacity auction in accordance with the MISO tariff, and (ii) settle with MISO for the sale of all such ZRCs that clear in the auction. MJMEUC's offer strategies will consider input from the KWPI Committee, but MJMEUC shall retain full discretion to make such offers as it deems appropriate. Net revenues received by MJMEUC from sales of such ZRCs in the MISO capacity auction shall be distributed among the KWPI Participants in accordance with Section 4.3(e).

(d) If City wishes to have MJMEUC transfer a share of the ZRCs to City rather than distribute to City a share of the revenues from MJMEUC's sale of the ZRCs available under the Wind Energy PPA, City shall provide notice of its election to MJMEUC no later than thirty (30) days prior to the Fixed Resource Adequacy Plan deadline as established in the MISO tariff (or any equivalent successor deadline) for the first MISO planning year in which City wishes to receive a transfer of ZRCs in lieu of a distribution of ZRC revenues. Thereafter, MJMEUC will assume City's election remains in place for subsequent MISO

planning years unless City provides a notice to change its election no later than thirty (30) days prior to the Fixed Resource Adequacy Plan deadline as established in the MISO tariff (or any equivalent successor deadline) for the first MISO planning year in which City wishes to revert to receiving a revenue distribution.

(e) For each MISO planning year in which City did not elect to receive a transfer of ZRCs in lieu of revenue distribution, MJMEUC shall pay to City its allocable share of net revenues received by MJMEUC from MISO from the sale of ZRCs available under the Wind Energy PPA, subject to Section 10.3 and other relevant provisions of Article Ten if City is in default under this Agreement. For purposes of such distribution, in any planning year in which no KWPI Participant elected to receive a transfer of ZRCs in lieu of revenue distribution, City's allocable share of the net ZRC revenues shall be its Participation Percentage. In any planning year in which one or more KWPI Participants elected to receive a transfer of ZRCs in lieu of revenue distribution, City's allocable share of the net ZRC revenues shall be the ratio of its Participation Percentage to the total Participation Percentages of the KWPI Participants who did not elect to receive a transfer of ZRCs in lieu of revenue distribution for that planning year. MJMEUC shall distribute to City its share of net revenues from sales of ZRCs available from the Wind Energy PPA, to an account and in a manner (e.g., electronic funds transfer) agreed upon by the Parties. MJMEUC shall use commercially reasonable efforts to make each such payment to City within five (5) Business Days after MJMEUC receives such net revenues from MISO.

4.4 Environmental Attributes. MJMEUC shall use commercially reasonable efforts to transfer to City its Participation Percentage of all Environmental Attributes available to MJMEUC under the Wind Energy PPA, through procedures to be developed by the KWPI Committee. Upon request, MJMEUC will assist City with getting certification of RECs, subject to City's payment of MJMEUC's related costs. If it is not commercially practicable for MJMEUC to transfer Environmental Attributes to City, the Parties will in good faith attempt to develop an alternative mechanism to allow City to enjoy the benefits of its Participation Percentage of all Environmental Attributes available to MJMEUC under the Wind Energy PPA. To the maximum extent practicable, such alternative mechanism shall be developed by the KWPI Committee and shall apply to all similarly situated KWPI Participants.

4.5 Record-Keeping. MJMEUC shall maintain accurate records of the MISO market transactions related to operation of KWPI, and shall retain such records for three (3) years. Such records shall be made available to City upon request, during normal business hours.

ARTICLE FIVE: COST RESPONSIBILITY; BILLING AND PAYMENT

5.1 General Principles. It is the Parties' intention that City will be responsible for its Participation Percentage of (a) the fixed and variable costs MJMEUC incurs pursuant to the TSA, the Wind Energy PPA, and the MISO tariff with respect to

settlements for energy and ancillary services transactions related to the Wind Energy PPA, and (b) MJMEUC's administrative and other reasonable costs associated with its operation of KWPI. City's obligation to pay for its appropriate share of such costs shall be effective upon the Effective Date and continue until all amounts due hereunder are paid in full notwithstanding the occurrence of any event, or the taking of any action permitted by this Agreement. The provisions that follow are intended to implement, but not to narrow, this intention.

5.2 City Responsibility For Shared KWPI Costs. Starting with the first month following commencement of commercial operation of the Grain Belt Express Project, City shall be invoiced for and shall pay its share of transmission charges under the TSA, energy charges under the Wind Energy PPA, and MJMEUC administrative charges.

(a) Each month, City's transmission charge shall be equal to City's Participation Percentage of the sum of the following charges to MJMEUC under the TSA for the same month (with all capitalized terms not defined herein having the meanings assigned to them in Attachment 1 to the TSA): (i) the product of the Tranche 1 Contract Rate and the Tranche 1 Reserved Contract Capacity, plus (ii) the product of the Tranche 2 Contract Rate and the MW amount of the Tranche 2 Reserved Contract Capacity that is needed to serve KWPI (i.e., the difference between the total KWPI project capacity and the Tranche 1 Reserved Contract Capacity). Such transmission charges will be due in full irrespective of the quantity of wind energy (if any) available under the Wind Energy PPA in such month. City shall be obligated to continue making monthly transmission payments to MJMEUC for the duration of MJMEUC's payment obligations under the TSA.

(b) Each month, City's estimated energy charge shall be calculated by multiplying (i) the current month's per-megawatt-hour rate for energy under the Wind Energy PPA by (ii) City's Participation Percentage of the nameplate capacity amount purchased by MJMEUC under the Wind Energy PPA for the same month and by (iii) the number of hours in the month. If MJMEUC will, in the applicable month, purchase energy pursuant to multiple Wind Energy PPAs, the estimated energy charge to the City shall be the sum of the values calculated in accordance with the preceding sentence for each Wind Energy PPA. The estimated energy charge for each month shall be trued up as soon thereafter as reasonable practicable, to reflect City's Participation Percentage of the actual charges paid by MJMEUC under the Wind Energy PPA for the applicable month; any overpayments by City shall be credited on the next monthly invoice provided to City, and any underpayments shall be added to the next monthly invoice provided to City.

(c) City's administrative charges each month shall be (i) an amount equal to the product of City's MW share of KWPI (as set forth in Section 4.1) and a rate per MW-month established by MJMEUC from time to time based on MJMEUC's KWPI budget, plus (ii) where applicable, City's Participation Percentage of MJMEUC's costs incurred in the prior month that are related to

KWPI but were not included in the KWPI budget. Budgeting of KWPI costs shall be determined by the MJMEUC Board of Directors with due consideration of any input from members of the KWPI Committee (or, if action by the Board of Directors is not reasonably achievable in a timely manner, by the MJMEUC Executive Committee). MJMEUC shall provide budgets and cost information to support the determination of KWPI cost allocations.

5.3 City-Specific Cost Responsibility. In addition, MJMEUC shall include on City's invoice appropriate charges for any service provided by MJMEUC to City in connection with its participation in KWPI beyond those services provided by MJMEUC generally to the KWPI Participants. Such charges shall include, without limitation, costs of assisting City to obtain certification of Environmental Attributes pursuant to Section 4.4.

5.4 Timing and Method of Invoices. MJMEUC shall prepare and render monthly invoices for the charges described in Sections 5.2 and 5.3 and deliver each monthly invoice by e-mail to the City on or before the fifth Business Day of the month.

5.5 Timing and Method of Payments. City shall pay the invoiced amount by the 15th day of the month (provided, however, that the City shall not have less than seven (7) Business Days after issuance of the invoice in which to make its payment), via a bank wire transfer or ACH debit to MJMEUC's bank account in accordance with the instructions provided in writing by MJMEUC. Interest shall be payable on all amounts not paid on or before the payment due date, over the actual number of days elapsed from the payment due date to the date such amounts are paid, at the Late Interest Rate.

5.6 Disputes. If City disputes any bill issued hereunder or the existence or extent of any obligation to make any payment hereunder, it shall nevertheless make payment of all bills when due in full with a written protest, submitted at the time of or subsequent to such payment, directed to MJMEUC. Any such protest shall be subject to the limitations set forth in Section 5.8. When any dispute regarding payment is resolved, any refunds due shall be paid (or credited) within ten (10) days thereafter, together with interest at the True-Up Interest Rate, based upon the actual number of days elapsed from the date paid until the date refunded or offset.

5.7 Audits. Not more than once a year, one or more of the KWPI Participants may conduct an audit of (i) records maintained by MJMEUC in conjunction with its operation of KWPI, and (ii) all costs charged to each KWPI Participant. If City wishes to initiate such an audit, it shall offer the other KWPI Participants the opportunity to participate. The costs of any such audit shall be borne by the KWPI Participants that agreed to participate in the audit, either directly or through reimbursement to MJMEUC. MJMEUC shall cooperate with one such audit in a given year, by making available documents and other information reasonably requested in connection therewith, during normal business hours.

5.8 Restriction on Challenges. No challenge may be raised by City with respect to the validity of costs incurred by MJMEUC under the TSA or any Wind Energy.

PPA (including challenges to the correctness and/or prudence of such costs) except to the extent that MJMEUC can in turn raise the challenge under the applicable agreement, and the resolution of any such challenge under the applicable agreement shall be dispositive as between City and MJMEUC.

5.9 Final Invoice and Payment. Within ten (10) Business Days after the date as of which KWP1 has been terminated and MJMEUC's final payments (if any) under the TSA (to the extent related to KWP1) and all Wind Energy PPAs have been made, MJMEUC shall prepare and present to City a final invoice for City's contractual share of MJMEUC's costs incurred in connection with KWP1 for which MJMEUC has not been previously reimbursed. City shall submit payment of its final invoice within ten (10) Business Days.

5.10 Unconditional Nature of Payment Obligation. All amounts payable by City under this Agreement shall be due whether or not any Wind Generation Facility is operating or operable or its output is suspended, interrupted, interfered with, reduced or curtailed or terminated in whole or in part, and whether or not any energy or other products available under the Wind Energy PPA have been sold into the applicable MISO markets. City's payments hereunder shall not be subject to any reduction, whether by offset, counterclaim, recoupment or otherwise, and shall not be conditioned upon the performance or nonperformance of MJMEUC or any other person under this Agreement or any other agreement for any cause whatsoever.

ARTICLE SIX: INFORMATION

6.1 KWP1 Committee. MJMEUC shall communicate information regarding KWP1 to City and other KWP1 Participants, and will provide such parties the opportunity to advise the MJMEUC Board of Directors and staff regarding KWP1 matters, through a new KWP1 Committee, whose members will consist of representatives of member city KWP1 Participants and members of MoPEP. The KWP1 Committee will make recommendations and decisions on actions to be taken by MJMEUC under the TSA and Wind Energy PPA. All decisions of the MJMEUC Board of Directors regarding KWP1 shall give due weight to recommendations made by the KWP1 Committee.

6.2 Provision of Information Obtained Under the TSA and Wind Energy PPA. The Parties recognize that MJMEUC's ability to obtain information about the Grain Belt Express Project and the Wind Generation Facility to provide to City will be governed by the TSA and the Wind Energy PPA, respectively. MJMEUC shall, while respecting any confidentiality provisions or other restrictions to which MJMEUC is subject under the applicable contracts, provide information to the KWP1 Committee regarding expected operational changes affecting KWP1. City hereby agrees to abide by all such restrictions on the use of confidential KWP1 information it obtains hereunder.

6.3 MJMEUC Budgets. MJMEUC's projected costs of operating KWP1 shall be included in a KWP1 annual budget which shall be incorporated in MJMEUC's annual budget. City shall have the right to review and have input on the KWP1 annual budget via the KWP1 Committee.

ARTICLE SEVEN: LIABILITY AND INDEMNIFICATION

7.1 General Indemnification of MJMEUC. City expressly agrees, to the fullest extent permitted by law, to indemnify, hold harmless and defend MJMEUC against any and all claims, liability, costs or expenses (including without limitation attorneys' fees and expenses) for loss, damage or injury to persons or property in any manner directly or indirectly connected with or growing out of MJMEUC's role as the operator and administrator of KWP1, unless such loss, damage or injury is the result of bad faith, gross negligence, or reckless or willful misconduct of MJMEUC or its employees acting within the course and scope of their employment.

7.2 Waiver of Indirect Damages. To the fullest extent permitted by law, neither Party shall be liable to the other for punitive, indirect, exemplary, consequential, or incidental damages arising in connection with this Agreement.

ARTICLE EIGHT: ASSIGNMENT

8.1 General Limitations on Transfers. Except as otherwise provided in this Article Eight, neither Party may sell, lease, assign, transfer, convey or otherwise dispose of in any manner, directly or indirectly (collectively, "Transfer") all or any part of its rights, obligations, benefits, advantages, titles and interest in this Agreement without the prior written consent of the other Party, such consent not to be unreasonably withheld, conditioned or delayed, and any such Transfer in contravention of this Article Eight shall be null and void *ab initio*. For purposes of this Section 8.1, any ground that is reasonably likely to have an adverse effect on the non-transferring Party may constitute a ground for withholding or conditioning its consent and shall be described to the Transferor in reasonable detail if consent is denied.

8.2 Notice of Proposed Transfer. If a Party desires to Transfer its interest in this Agreement, then no less than 90 days prior to such proposed Transfer, the Transferor shall provide written notice thereof to the other Party. The notice shall identify the proposed Transferee and the date on which the Party proposes to effect the Transfer.

8.3 Transfers by MJMEUC. In connection with any transfer by MJMEUC of its obligations and interests in the TSA (to the extent being utilized for KWP1) and/or the Wind Energy PPA, MJMEUC shall assign this Agreement and Transfer all of its rights and obligations hereunder to such entity. MJMEUC shall not be required to obtain City's consent for any such Transfer. MJMEUC may also assign its interest in this Agreement to a trustee or other Person as is necessary in connection with any bond financing of MJMEUC, and shall not be required to provide advance notice to City of, or obtain City's consent to, any such assignments made for financing purposes.

8.4 Transfers by City. If City proposes to Transfer its interest in this Agreement, MJMEUC shall, if permitted by the provisions of any applicable bond indenture, have the right to terminate this Agreement effective as of the proposed Transfer date, with the result that MJMEUC re-acquires City's Participation Percentage of KWP1, and that City is released from its obligations hereunder, effective as of the date

of termination pursuant to Section 2.2. If MJMEUC chooses to exercise this right, it shall provide notice of its election to City no later than fifteen (15) days after receiving the notice provided by City pursuant to Section 8.2. If MJMEUC chooses not to exercise this right, the proposed Transfer may go forward if MJMEUC consents. The Parties acknowledge and agree that any such consent may reasonably be conditioned on such matters as the Transferee's creditworthiness. If City Transfers any portion of its project share to another KWP1 Participant or if MJMEUC exercises its option to terminate this Agreement and re-acquire City's project share, MJMEUC shall prepare a revised informational exhibit reflecting the revised Participation Percentages resulting from the transaction.

8.5 Conditions Required for Permitted Transfers. As a condition precedent to any permitted Transfer hereunder:

(a) at the time of the Transfer, either (i) the Transferor must not be in default of any of its material obligations under this Agreement or (ii) such default must be cured on or prior to the date of the Transfer; and

(b) the Transferor shall deliver to the other Party documents satisfactory to it evidencing Transferee's acceptance of the Transfer and assumption of all of the Transferor's obligations under this Agreement.

8.6 Prohibited Transfers. Notwithstanding anything in this Article Eight, no Transfer of this Agreement will be permitted if it would jeopardize the tax-exempt status of any of MJMEUC's bonds.

ARTICLE NINE: DISPUTE RESOLUTION

9.1 Dispute Notice. If a dispute arises between the Parties, then the aggrieved Party may provide written notice thereof to the other Party, including a detailed description of the subject matter of the dispute.

9.2 Negotiations. Representatives of the Parties shall in good faith attempt to resolve such dispute by informal negotiations within ten (10) Business Days from the date of receipt of a dispute notice under Section 9.1.

9.3 Involvement of Senior Executives. If the dispute is not resolved within ten (10) Business Days following receipt of the dispute notice or such later date as the Parties may mutually agree, then each Party shall promptly designate its most senior executive responsible for the subject matter of the dispute who shall have authority to resolve the dispute. The senior executives shall obtain such information as may be necessary to inform themselves of the substance and particulars of the dispute and shall meet within twenty (20) Business Days, at a time and place mutually acceptable to the senior executives.

9.4 Arbitration. If the senior executives are unable to resolve the dispute within twenty (20) Business Days of their first meeting or such later date as the senior executives may mutually agree, then the dispute shall, subject to Section 9.5, be resolved

solely and exclusively by binding arbitration, using the following procedures (absent agreement of the Parties to different procedures).

(a) The arbitration shall be conducted before a panel of three arbitrators in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") then in effect, except as modified herein. The Party seeking relief from the other Party shall prepare and submit a request for arbitration (the "Demand"), which will include statements of the facts and circumstances surrounding the dispute, the legal obligation breached by the other Party, the amount in controversy and the requested relief. The Demand shall be accompanied by all relevant supporting documents.

(b) Unless the dispute uniquely affects just one KWP1 Participant, each other KWP1 Participant (excluding MJMEUC in its role as operator of MoPEP) that wishes to participate in the arbitration shall, for purposes of a particular arbitration, declare which Party it supports. In applying the provisions of this Section 9.4, each reference to a "Party" will be deemed to include all aligned KWP1 Participants, and the aligned KWP1 Participants shall act in a collective manner to exercise their rights and fulfill their obligations hereunder. A KWP1 Participant that elects not to participate will nonetheless be bound by the outcome of the arbitration.

(c) Arbitration shall be held in Columbia, Missouri. The arbitration shall be governed by the United States Arbitration Act, 9 U.S.C. §§ 1 et seq.

(d) The Party asserting a claim for relief and the Party opposing such relief shall each select one arbitrator within ten (10) days of the receipt of the Demand, or if such Party fails to make such selection within ten (10) days from the receipt of the Demand, the AAA shall make such appointment upon the written request of the other Party. The two arbitrators thus appointed shall select the third arbitrator, who shall act as the chairman of the panel. If the two arbitrators fail to agree on a third arbitrator within thirty (30) days of the selection of the second arbitrator, the AAA shall make such appointment.

(e) The award shall be in writing (stating the award and the reasons therefor) and shall be final and binding upon the Parties, and shall be the sole and exclusive remedy regarding any claims, counterclaims, issues, or accountings presented to the arbitration panel. The arbitration panel shall be authorized in its discretion to grant pre-award and post-award interest at commercial rates. Judgment upon any award may be entered in any court having jurisdiction.

(f) This Agreement and the rights and obligations of the Parties shall remain in full force and effect pending the award in any arbitration proceeding hereunder.

(g) Unless otherwise ordered by the arbitrators, each Party shall bear its own costs and fees, including attorneys' fees and expenses. The Parties

expressly agree that the arbitrators shall have no power to consider or award any form of damages barred by Section 7.2, or any other multiple or enhanced damages, whether statutory or common law.

(h) Each Party understands that it will not be able to bring a lawsuit concerning the affected dispute, except as necessary to enforce this Section 9.4 or an arbitration award.

9.5 Agency Jurisdiction. Notwithstanding anything to the contrary in Section 9.4, the Parties acknowledge and agree that a dispute over which a Governmental Authority has exclusive jurisdiction shall, in the first instance, be brought before and resolved by such Governmental Authority.

ARTICLE TEN: DEFAULT AND REMEDIES

10.1 Events of Default. The following shall be Events of Default under this Agreement:

(a) The failure of City to make a payment when due under this Agreement, which has not been cured within five (5) days after notice of such non-payment has been provided by MJMEUC (a "Payment Default"); or

(b) The failure of a Party to perform or abide by any material obligation under this Agreement, other than payment, within 60 days of receipt of written notice of non-performance; *provided, however*, that if such default cannot be cured within such 60-day period, no Event of Default shall occur for so long as the non-performing Party is diligently pursuing a cure, and such non-performance is curable; or

(c) The commencement, with respect to a Party, by such Party or by another person or entity of a bankruptcy, reorganization, moratorium, liquidation or similar insolvency proceeding or other relief under any bankruptcy or insolvency law affecting creditors' rights or a petition is presented or instituted for its winding-up or liquidation.

10.2 Remedies. If a Party fails to perform or breaches any of its material obligations under this Agreement, then the non-defaulting Party shall be entitled to exercise all remedies available to it at law or in equity (except as limited in Section 10.6). The Parties acknowledge and agree that monetary damages may not be an adequate remedy at law for the failure of a Party to perform certain material obligations under this Agreement, and under such circumstances, the non-defaulting Party shall have the right to specific performance by the defaulting Party of such obligations under this Agreement.

10.3 Suspension of MISO Revenues. If City has committed a Payment Default, MJMEUC may temporarily suspend City's right to receive its share of MISO revenues under Article Four. Such suspension shall continue until the earlier of (i) City shall have cured such Payment Default or (ii) City's entitlement share has been permanently transferred or sold in accordance with Section 10.5.

10.4 Termination of Participation. If City fails to cure a Payment Default within sixty (60) days after notice of City's non-payment has been provided by MJMEUC, City's participation in KWP1 shall immediately and permanently be terminated; provided, however, City's obligation to make payments under this Agreement shall not be eliminated or reduced except to the extent provided in Section 10.5. MJMEUC shall promptly provide notice of any such termination to all KWP1 Participants.

10.5 Disposition of Defaulting Participant's Share of Project. In the event another KWP1 Participant's rights are terminated pursuant to Section 10.4 of its parallel agreement, MJMEUC shall undertake or cause to be undertaken the following actions in the order indicated:

(a) MJMEUC shall offer to increase the Participation Percentage of each KWP1 Participant who is not in default to allow it to acquire a pro-rata portion of the defaulting KWP1 Participant's terminated share of the project. Any part of such project share of a defaulting KWP1 Participant which shall be declined by any non-defaulting KWP1 Participant shall be reoffered pro rata to the non-defaulting KWP1 Participants which have accepted in full the first such offer. Such reoffering shall be repeated until such defaulting KWP1 Participant's share shall have been reallocated in full or until all non-defaulting KWP1 Participants shall have declined to take any additional portion of such defaulting KWP1 Participant's share.

(b) In the event less than all of a defaulting KWP1 Participant's project share shall be accepted pursuant to Section 10.5(a), MJMEUC shall use its reasonable best efforts to transfer the remaining portion of a defaulting KWP1 Participant's project share for the remaining term of KWP1 to any person, firm, association or corporation, public or private. In the event of a default and discontinuance of service under any agreement for such transfer, that project share shall be offered and transferred as provided for in this Section 10.5.

(c) In the event that less than all of a defaulting KWP1 Participant's project share is disposed of pursuant to the methods provided for in Sections 10.5(a) and (b), the Participation Percentage of each non-defaulting KWP1 Participant (for the sake of clarity, including any new KWP1 Participants under Section 10.5(b) and MJMEUC in its role as a KWP1 Participant on behalf of MoPEP) shall be increased by an amount equal to the product of (i) the remaining project share not already disposed of pursuant to Sections 10.5(a) and (b) times (ii) the non-defaulting KWP1 Participant's original Participation Percentage divided by the total original Participation Percentages of all non-defaulting KWP1 Participants. In no event shall such increase result in a transferee KWP1 Participant having a Participation Percentage in excess of 200% of its original Participation Percentage without the prior consent of the transferee KWP1 Participant. If operation of this section would have such result and the transferee KWP1 Participant does not consent, the other non-defaulting KWP1 Participants

shall have their project shares increased in proportion to their original Participation Percentages, subject to the cap of 200%.

(d) In the event that less than all of a defaulting KWP1 Participant's project share shall be disposed of pursuant to Sections 10.5(a), (b) or (c), MJMEUC shall use its reasonable best efforts to transfer the remaining portion of a defaulting KWP1 Participant's share on such terms and conditions as are acceptable to MJMEUC to any person, firm, association or corporation, public or private.

(e) City shall remain liable under this Agreement in all events absent outright termination of this Agreement by MJMEUC in its sole discretion and subject to the provisions of any applicable bond indenture, except that City's obligation to pay MJMEUC shall be reduced to the extent that payments shall be received by MJMEUC for that portion of City's share disposed of as provided in this Section 10.5.

10.6 No Termination by City. In response to any Event of Default by MJMEUC, City shall not have the right to terminate this Agreement.

10.7 No Liability of MJMEUC Relating to Provision of Information. Notwithstanding any provision to the contrary contained in this Agreement, the Parties acknowledge and agree that MJMEUC shall not be liable for monetary damages to City arising from or in connection with any reports, notices, certificates, documents, information or data of any kind or nature (whether or not prepared by or on behalf of MJMEUC) provided to City pursuant to or in connection with this Agreement.

ARTICLE ELEVEN: REPRESENTATIONS AND WARRANTIES

11.1 MJMEUC's Representations. MJMEUC hereby makes the following representations, warranties and covenants to City as of the Effective Date and through the end of the Term:

(a) MJMEUC is a governmental entity and body public and corporate duly organized, validly existing and in good standing under the laws of the State of Missouri, and has the legal power to enter into this Agreement 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 Agreement.

(b) The execution, delivery and performance by MJMEUC of this Agreement have been duly authorized by all necessary action.

(c) This Agreement constitutes the legal, valid and binding obligation of MJMEUC, enforceable in accordance with its terms.

(d) There is no pending, or to the knowledge of MJMEUC, threatened action or proceeding affecting MJMEUC before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement

as in effect on the date hereof. Notwithstanding the foregoing, MJMEUC's sole continuing covenant with respect to this Section 11.1(d) shall be to take all necessary and reasonable actions to defend the enforceability and validity of this Agreement and aggressively defend any lawsuit involving or related to this Agreement.

11.2 City's Representations. City hereby makes the following representations, warranties and covenants to MJMEUC as of the Effective Date and through the end of the Term:

(a) City is a municipality and political subdivision of the State of Missouri, and has the legal power to enter into this Agreement 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 Agreement.

(b) The execution, delivery and performance by City of this Agreement have been duly authorized by all necessary action.

(c) This Agreement constitutes the legal, valid and binding obligation of City, enforceable in accordance with its terms.

(d) There is no pending, or to the knowledge of City, threatened action or proceeding affecting City before any Governmental Authority which purports to affect the legality, validity or enforceability of this Agreement as in effect on the date hereof. Notwithstanding the foregoing, City's sole continuing covenant with respect to this Section 11.2(d) shall be to take all necessary and reasonable actions to defend the enforceability and validity of this Agreement and aggressively defend any lawsuit involving or related to this Agreement.

(e) City is and shall remain throughout the term of this Agreement a member or advisory member of MJMEUC.

(f) City is and shall remain throughout the term of this Agreement a "political subdivision" of the state of Missouri within the meaning of Section 103(a) of the Internal Revenue Code.

(g) City will establish, maintain and collect such rates, fees and charges for the electric service of its electric utility system so as to provide revenues at least sufficient to enable City to make all payments required to be made by it under this Agreement and any other agreements with respect to its electric utility.

(h) The obligations of City to make payments under this Agreement shall be limited to the obligation to make payments from revenues of its electric utility system and available electric utility system reserves. All payments made by City pursuant to this Agreement shall constitute operation and maintenance expenses of its electric utility system. The City shall not be obligated to levy any taxes for the purpose of paying any amount due under this Agreement. The City

shall not issue any evidence of indebtedness with a lien on electric system revenues that is prior to the payment of operating and maintenance expenses.

(i) The City covenants to maintain its electric system in good repair in accordance with Good Utility Practice, to cooperate with MJMEUC, and to keep accurate records and accounts.

(j) The City shall not sell, lease or otherwise dispose of all or substantially all of its electric system, nor shall the City assign all or any part of its Pro-Rata Share or any or all of its interests under this Agreement, except upon the approval of MJMEUC pursuant to Article Eight, such approval not to be unreasonably withheld or delayed.

(k) The City shall not operate its system in any manner or for any purpose, or take or omit to take any action which could, either alone or in conjunction with any other similar actions by the City or other KWPI Participants, result in loss of the exclusion from gross income for federal income tax purposes of the interest on any bonds issued or thereafter issuable by MJMEUC.

ARTICLE TWELVE: CREDITWORTHINESS

City shall provide such financial information and operating data (i) as MJMEUC is required to obtain from City under the continuing disclosure requirements of Rule 15c2-12 adopted by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as the same may be amended from time to time, or (ii) as may be necessary for MJMEUC to provide to rating agencies or its lenders from time to time.

ARTICLE THIRTEEN: MISCELLANEOUS

13.1 Applicable Law. The rights and obligations of the Parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Missouri, without regard to conflicts of law doctrines.

13.2 Jury Trial. EACH OF THE PARTIES WAIVES TO THE FULLEST EXTENT PERMITTED BY LAW ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THIS AGREEMENT OR UNDER ANY AMENDMENT, INSTRUMENT, DOCUMENT OR AGREEMENT DELIVERED OR WHICH MAY IN THE FUTURE BE DELIVERED IN CONNECTION WITH THIS AGREEMENT AND AGREES THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

13.3 Notices. Unless otherwise expressly provided for in this Agreement, all communications and notices to a Party in connection with this Agreement shall be in writing, by email, and any such notice shall become effective (a) upon personal delivery thereof, including by overnight mail or next Business Day or courier service, (b) in the case of notice by United States mail, certified or registered, postage prepaid, return

receipt requested, upon receipt thereof, or (c) in the case of email, upon transmission thereof, provided that in addition to such transmission a confirmation copy of the notice is also provided by either of the methods set forth in clause (a) or (b) above. All notices provided by the means described in clauses (a), (b), or (c) above shall be addressed as follows, or to such other address as any Party may designate by written notice to the other Parties.

For notice to MJMEUC:

Missouri Joint Municipal Electric Utilities Commission
1808 I-70 Dr. SW
Columbia, MO 65203
Attention: General Manager and CEO

With a copy to: contractnotices@mpua.org

For notice to City:

City of Columbia
Water & Light Department
701 East Broadway
PO Box 6015
Columbia, Missouri 65205
Attention: Director Water & Light

13.4 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

13.5 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law; but if any provision of this Agreement shall be prohibited by or deemed invalid under any applicable Law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

13.6 Parties Bound. This Agreement shall be binding upon the Parties and their respective successors and permitted assigns.

13.7 Third-Party Beneficiaries. Except as expressly provided herein, none of the provisions of this Agreement are intended for the benefit of any Person other than the Parties, their respective successors and permitted assigns.

13.8 Entire Agreement. This Agreement states the rights of the Parties with respect to the transactions contemplated by this Agreement and supersedes all prior agreements, oral or written, with respect thereto.

13.9 Headings and Table of Contents. Section headings and the table of contents used in this Agreement (including headings used in any schedules, addenda annexes and/or exhibits attached hereto) are for convenience of reference only and shall not affect the construction of this Agreement.

13.10 Schedules and Addenda. The Schedules and Addenda together with all attachments referenced therein, are incorporated herein by reference and made a part hereof.

13.11 Amendments and Waivers.

(a) This Agreement may not be amended, supplemented or otherwise modified, other than pursuant to an instrument or instruments in writing executed by the Parties.

(b) No waiver by either Party of any one or more defaults by the other Party in the performance of any of the provisions of this Agreement shall be construed as a waiver of any other default or defaults whether of a like kind or different nature. Any delay, less than any applicable statutory period of limitations, in asserting or enforcing any rights under this Agreement shall not be deemed a waiver of such rights. Failure of either Party to enforce any provisions hereof shall not be construed to waive such provision, or to affect the validity of this Agreement or any part thereof, or the right of the Party thereafter to enforce each and every provision thereof.


13.12 Survival. Except for Articles Seven, Nine and Ten, the confidentiality requirements in Section 6.2, and Article Five (to the extent applicable to obligations arising prior to termination), which shall survive termination of this Agreement, and except as otherwise expressly provided in this Agreement, the representations, warranties and obligations of each Party contained in this Agreement shall not survive the termination of this Agreement either in its entirety or as to a particular Party in accordance with its terms.

13.13 Further Assurances. Each Party shall promptly and duly execute and deliver such further documents and assurances for and take such further actions reasonably requested by the other Parties, all as may be reasonably necessary to carry out the purposes of this Agreement.

IN WITNESS WHEREOF, each of the Parties has caused this Agreement to be duly executed and delivered under seal by its duly authorized representative as of the date set forth below.

THIS CONTRACT CONTAINS A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES.

MISSOURI JOINT MUNICIPAL ELECTRIC
UTILITIES COMMISSION

By: 

Name: Duncan E. Kincheloe
Title: General Manager and CEO

Attest: 

Name: Elise Buchheit
Title: Administrative Assistant

Dated: 06-13-17


CITY OF COLUMBIA, MISSOURI

By: 

Name: Mike Mathes
Title: City Manager

Dated: 6-6-17

APPROVED AS TO FORM:

By: 
Nancy Thompson, City Counselor

ATTEST:

By: 
Sheela Amin, City Clerk