

ECONOMIC DEVELOPMENT AGREEMENT

THIS ECONOMIC DEVELOPMENT AGREEMENT (this "Agreement") is made as of this 30th day of December, 2004 (the "Effective Date") by and between the CITY OF PECULIAR, MISSOURI, a city of the fourth class and political subdivision of the State of Missouri for governmental, political and public purposes located in Cass County, Missouri (the "City"), and Aquila, Inc., a Delaware corporation having a principal office in Kansas City, Missouri ("Aquila").

WHEREAS, the City is a political subdivision organized and existing under the Constitution and laws of the State of Missouri; and

WHEREAS, the City is authorized under Article VI, Section 27(b) of the Constitution of the State and Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended (the "Acts") to issue and sell revenue bonds for the purpose of paying all or part of the cost of purchasing, constructing or improving any project to be leased to a private person or corporation for commercial and industrial development purposes; and

WHEREAS, Aquila is currently investigating the viability of and intends to build or cause to be built, in one or more phases, additional electric power generating and transmission facilities on certain real property located in Cass County, Missouri; and

WHEREAS, Aquila desires that the City issue revenue bonds to finance the Project (as defined below) and, while such bonds are outstanding, to have legal title to the Project and lease the Project to Aquila or an Affiliate, or another permitted entity which would in turn lease the Project to Aquila; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

For purposes of this Agreement, in addition to the terms defined in the foregoing recitals and elsewhere in this Agreement, the following terms shall have the meanings set forth below:

"Acts" means collectively Article VI, section 27(b) of the Missouri constitution and sections 100.010 through 100.200 of the Revised Statutes of Missouri, as from time to time amended.

"Affiliate" means any person or entity directly or indirectly controlling, controlled by or under common control with Aquila.

"Approved Purchaser" means Aquila, an Affiliate or any other purchaser or purchasers acceptable to Aquila and the City that acquires the Bonds and provides Lender Financing.

"Aquila Approvals" has the meaning set forth in Section 4.01 of this Agreement.

"Bonds" means any revenue bonds or other obligations issued by or on behalf of the City financing the Project in accordance with this Agreement and the Acts.

"Bond Documents" means the form of the Bonds, the indenture of trust, the Lease and other transactional documents allowing the City to issue and secure the Bonds.

"City Administrator" means the duly appointed City Administrator of the City of Peculiar, Missouri, or his/her designee.

"Financing Document" means any loan agreement, credit agreement, security agreement, mortgage, participation agreement, lease agreement, sublease, hedging agreement or other document executed by or on behalf of a Financing Party for the Project.

"Financing Party" means any person or entity providing debt, lease or equity financing (including equity contributions or commitments) or hedging arrangements, or any renewal, extension or refinancing of any financing or hedging arrangements, or any guarantee, insurance, letters of credit or credit support for any financing or hedging arrangements, financing the development, construction, ownership, lease, operation or maintenance of the Project or interests or rights in the Lease, or any part thereof, including any trustee or agent acting on any such person's behalf.

"Grant" or "Grants" means payments in lieu of taxes made by Aquila to the City pursuant to Sections 4.03(b) and 4.03(c) of this Agreement.

"Lease" means the lease purchase agreement between the City and Aquila leasing the Project to Aquila under the provisions of the Acts and this Agreement.

"Leasehold Mortgage" means any leasehold mortgage, leasehold deed of trust, assignment of rents and leases, security agreement or other agreement relating to the Project permitted pursuant to the provisions of Section 5.02 hereof.

"Lender Financing" means the proceeds or the funds from the issuance of the Bonds to the Approved Purchaser of the Bonds used to pay for costs of the Project or from any Financing Document with a Financing Party.

"Litigation" means litigation arising in respect of the Project or the transactions contemplated by this Agreement, the Bond Documents or the Lease, including without limitation (a) the Petition for Declaratory Judgment and Injunction filed against the City in Case Number CV104-1355 CC on November 8, 2004 in the Circuit Court of Cass County, Missouri, (b) the Application for Temporary Restraining Order and for Preliminary Injunction filed against Aquila in Case Number CV104-1443 CC on December 1, 2004 in the Circuit Court of Cass County, Missouri, and (c) the Application for Preliminary Injunction to Stop Building of Power Plant filed against Aquila in Case Number CV104-1380 CC on November 15, 2004 in the Circuit Court of Cass County, Missouri.

"Mayor" means the duly elected and serving Mayor of the City.

"North Property" means certain real property situated in Cass County, Missouri, as described under the heading "North Property" on Exhibit A to this Agreement.

"Peculiar 345 kv Substation" means the electric transmission substation constructed and installed on the North Property pursuant to this Agreement, including the fixtures and appurtenances attached thereto, but excluding rights of way, materials, supplies, and other personal property located thereon, and as more generally described under the heading "Peculiar 345 kv Substation" on Exhibit B to this Agreement.

"Preliminary Funds" means the sum of Fifteen Thousand Dollars (\$15,000.00) provided by Aquila to the City as set forth in **Article II** of this Agreement.

"Project" means, collectively, the South Harper Peaking Facility and the Peculiar 345 kv Substation.

"Property" means, collectively, the North Property and the South Harper Property.

"South Harper Peaking Facility" means the electric generating and transmission facilities constructed and installed on the South Harper Property pursuant to this Agreement, including the fixtures and appurtenances attached thereto, but excluding rights of way, materials, supplies, fuel, inventory, vehicles and other personal property located thereon, and as more generally described under the heading "South Harper Peaking Facility" on Exhibit B to this Agreement.

"South Harper Property" means certain real property situated in Cass County, Missouri, as described under the heading "South Harper Property" on **Exhibit A** to this Agreement.

"Turbines" means three Siemens Westinghouse 105 MW natural gas-fired combustion turbine units owned by Aquila that have been designated by Aquila for the generation of electricity at the South Harper Peaking Facility and transferred to the City pursuant to the Bond Documents.

ARTICLE II

PRELIMINARY FUNDING

Section 2.01. Advance Funds. City hereby acknowledges receipt of the Preliminary Funds to be used by the City to pay costs incurred by the City in connection with the preparation and review of this Agreement as described in **Section 4.01** hereof, and the financing and development of the Project, but not including costs of issuance of the Bonds which shall be paid by Aquila from Bond proceeds. The City shall deposit the Preliminary Funds in an interest bearing account and shall allocate and use the Preliminary Funds as a source of payment of actual costs incurred by the City for all legal, consulting, and administrative costs of the City incurred pursuant to this **Article II**.

Section 2.02. Disbursements. The City shall disburse the Preliminary Funds to pay costs for the work set forth in **Section 2.01** of this Agreement on a monthly basis for any month in which such costs are actually incurred by the City. Disbursements shall be made only upon receipt of: (a) invoices for work reasonably and actually performed by attorneys and consultants selected by the City in the City's sole discretion; (b) receipts for any and all necessary direct out of pocket expenditures incurred by the attorneys and consultants in connection with such work; and (c) such other supporting documentation as may be requested by the City (collectively, a "Disbursement Request"); *provided that* any invoice or portion thereof or supporting documentation of the selected attorneys as part of a Disbursement Request shall at all times be and remain subject to attorney-client and attorney work product privilege and nothing in this Agreement shall be construed to be a waiver of attorney-client and attorney work product privilege by the City. The City Administrator shall examine each Disbursement Request and all disbursements made by the City shall be approved in writing by the Mayor. The City shall use reasonable care in ascertaining that all amounts charged to the City pursuant to each Disbursement Request are fair and reasonable amounts for the work represented on each Disbursement Request. Within ten (10) days after the City receives a Disbursement Request, the City shall forward a summary of such Disbursement Request to Aquila. If Aquila has questions regarding any Disbursement Request, Aquila shall direct such questions to the City Administrator; *provided, however,* that the City shall not be required to obtain Aquila's approval for payment of any Disbursement Request.

Section 2.03. Remaining Balances. In the event Aquila elects not to proceed with the Project pursuant to this Agreement, Aquila shall provide notice of such election to the City and the City shall pay Aquila within forty-five (45) days of the receipt of such notice the then-existing balance of the Preliminary Funds remaining after the City's payment of any invoices for work performed by any attorney or consultant through the date of receipt of such notice. Any Preliminary Fund balances remaining after all payments by the City for all work specified in **Section 2.01** of this Agreement shall be promptly returned to Aquila.

ARTICLE III

THE PROJECT

Section 3.01. Initiation of the Project. Prior to issuance of Bonds, Aquila will develop certain plans and specifications for constructing the Project. The Project plans and specifications shall be prepared by a professional engineer or architect licensed to practice in the State of Missouri and shall be in conformity with all applicable federal, state and local laws, ordinances, and regulations. Aquila agrees to provide to the City copies of the plans and specifications upon the City's reasonable request. The parties hereto acknowledge and agree that prior to the issuance of any Bonds by the City, Aquila may notify the City in writing of its election not to finance the Project with the proceeds of the Bonds pursuant to the Acts, and this Agreement shall terminate, subject to Section 2.03 and the provisions of this Agreement that expressly survive the termination hereof. Aquila shall construct or cause to be constructed the Project in accordance with the plans and specifications prepared pursuant to this **Section 3.01**. In constructing or causing the construction of the Project Aquila may enter into one or more construction contracts; *provided that* prior to the issuance of any Bonds Aquila shall obtain or shall ensure that any such contractor obtains workers' compensation, comprehensive public liability and builder's risk insurance coverage in amounts customary in the industry for similar type projects and shall ensure that the insurance required is maintained by any such contractor for the duration of the construction of the Project and the City shall be named as an additional insured. To the extent that competitive bidding and award requirements and prevailing wage or other wage and hour statutes or requirements apply to the Project or any portion thereof, Aquila covenants and agrees to take all such actions as are necessary to comply with such laws, regulations or requirements. Upon issuance of the Bonds, Aquila shall convey unencumbered fee simple title to the Project and the Property to the City and the City shall lease the Project and the Property to Aquila for a term coterminous with the term of the Bonds, all in accordance with terms and conditions set forth in the Bond Documents.

Section 3.02. Project Budget. Aquila estimates that the Project will cost approximately \$133,000,000. The costs of the Project shall be funded from any combination of equity or Lender Financing determined in the sole and absolute discretion of Aquila.

Section 3.03. City Approvals.

(a) Prior to the issuance of the Bonds, Aquila shall prepare, and the City agrees to consider, a plan for the Project meeting the requirements of Section 100.050, RSMo, as amended (the "Plan"). Approval of the Plan by a majority vote of the governing body of the City shall be a precondition to the issuance of the Bonds by the City for the Project. This Agreement may be incorporated into the Plan approved by the City.

(b) Aquila agrees that, so long as the City has legal title to the Project, the City must approve any use or additional development of the Property other than for the Project.

(c) The approval of this Agreement shall not affect or constitute any approval required by any City department or pursuant to any City ordinance, code, regulation or any other governmental approval required by law, nor does any approval by the City pursuant to this Agreement constitute approval of the quality, structural soundness or safety of any portion of the Project. The City will not unreasonably withhold any consent or approval required by any City ordinance, code, regulation or any other governmental approval required by law related to the Project; *provided that* nothing herein shall be construed to obligate the City to grant municipal permits or other approvals the City would not be obligated to grant, acting as a political subdivision, absent this Agreement. The City agrees that the City will not adopt or approve any ordinance, code, or regulation not in force and effect on the Effective Date which would materially adversely affect the Project and which would exclude or exempt other similarly situated properties or facilities within the City.

Section 3.04. Permit Fees. In connection with the Project, Aquila shall be obligated to pay only those permit, engineering, tap on, inspection and similar fees that are assessed on a uniform basis by the City and are of general applicability to other property or facilities within the territorial jurisdiction of the City.

Section 3.05. Economic Development Tariff. To the extent required by applicable law or regulation, Aquila agrees to grant discounted electric rates to any electric customer locating in the City qualifying for economic development tariffs.

ARTICLE IV

ISSUANCE OF BONDS, GRANTS AND OTHER OBLIGATIONS

Section 4.01. Issuance of Bonds. The City intends to issue, upon the written request of Aquila, an aggregate principal amount not to exceed \$140,000,000 of Bonds pursuant to the Acts to finance the costs of the Project, with the actual amount of such Bonds, and the number and series of such Bonds, to be specified in writing by Aquila. The maximum term of the Bonds issued pursuant to this section shall be for thirty (30) years after the date on which the Project becomes operational. The Bonds issued by the City may be redeemed by Aquila (acting in its sole discretion) if Aquila does not receive any approval (the "**Aquila Approvals**") required to (a) consummate the Project, (b) perform its obligations under this Agreement, the Lease or the Bond Documents, or (c) recover through electric rates, in the applicable service territory in the State of Missouri, the Project costs. The City shall cooperate with and provide reasonable assistance to Aquila in obtaining any required regulatory approvals. The City and Aquila shall mutually select the trustee and, if desirable, the designated underwriter (and such financial advisors and consultants as the underwriter, with the approval of the City and Aquila, deems necessary for the issuance of the Bonds). The parties agree that Gilmore & Bell, P.C., Kansas City, Missouri, shall be bond counsel for the transaction ("**Bond Counsel**"). The fees of Bond Counsel and McLiney and Company, financial advisor to the City, shall be paid by Aquila concurrently with the issuance of the Bonds. The fee payable to McLiney and Company upon the first issuance of the Bonds will be \$130,000, and no other fees will be payable to McLiney and Company in connection with the Bonds. The City shall be paid by Aquila an issuance fee of \$700,000 for the Bonds when Bonds are first issued by the City; provided, that (x) the City agrees to return \$630,000 of the issuance fee to Aquila within 30 days after January 1, 2006, if Aquila has redeemed the Bonds on or before December 31, 2005, due to a failure to obtain (or obtain on terms acceptable to Aquila, acting in its sole discretion) one or more Aquila Approvals or the issuance of an adverse ruling, decision or court order with respect to Litigation, and (y) until the earlier of (i) the date on which the City returns funds to Aquila pursuant to clause (x) above and (ii) January 1, 2006, if Aquila has not redeemed the Bonds on before December 31, 2005, the City will keep at least \$630,000 of the issuance fee in a restricted account that shall not be commingled with any other funds. The

Bonds shall bear interest at such rates, shall be subject to redemption and shall have such terms as the City and Aquila shall mutually determine.

Section 4.02. Financing.

(a) The parties hereto acknowledge that concurrent with or subsequent to the issuance of the Bonds as set forth in **Section 5.01**, Lender Financing may be desired, upon such terms as Aquila determines in its sole and absolute discretion. The City shall cooperate and provide reasonable assistance in connection with the marketing of any Bonds to the Approved Purchaser of the Bonds and obtaining any Lender Financing, including but not limited to making representations and warranties and providing information and assisting Aquila in preparing an official statement to sell the Bonds. The City acknowledges and agrees that Aquila may finance and refinance its rights and interests in the Project, the Lease and the leasehold estate created thereby and that Aquila may execute Financing Documents or a Leasehold Mortgage with one or more Financing Parties, or may sublease or assign the Lease, the leasehold estate or any sublease, and/or grant liens or security interests in the Project, to any Financing Party (or to the designee, nominee, assignee or transferee of such Financing Party).

(b) The City intends to lease the Project to Aquila or other permitted entity pursuant to the Lease, and the payments made under the Lease shall be equal to and timed to coincide with the due dates of, and pledged to pay, the principal of and interest on the Bonds.

(c) The Bond Documents shall contain such terms and conditions as are acceptable to Aquila and the City. The Bonds shall be secured solely by the Project and the Lease, and the City shall have no liability to make payments with respect to the Bonds except from payments made under the Lease and other Bond documents and related transaction documents (other than the Grants described herein). Other than the security interest in the Project and the Property granted pursuant to the Bond Documents, the City may not encumber, pledge or grant any lien or security interest in the Project or the Property.

Section 4.03. Grants and Other Payments.

(a) If the Bonds are issued, Aquila and the City expect that the Project, the Property, and the Turbines will be conveyed to and legal title held by the City (and Aquila hereby agrees to timely take such actions and execute such documents as may be required to convey title to the Project and the Property to the City consistent with this Section) and leased to Aquila and, accordingly, will be exempt from property taxes (whether real, personal or otherwise) levied by any applicable taxing authority, including, without limitation, the City, Cass County, Missouri, West Peculiar Fire Protection District, Cass County Library District and the Raymore Peculiar R-II School District, for as long as the City holds legal title to the Project and the Property. Aquila hereby agrees to make, or cause to be made, the Grants described in Section 4.03(b) below through the end of any year in which the City holds legal title to the Project and the Property. Within 30 days of the date of receipt of each Grant payment, the City shall divide each Grant payment among the taxing jurisdictions identified above in proportion to the amount of the then current *ad valorem* tax levy of each taxing jurisdiction as provided in the Acts. Failure to make a scheduled Grant payment shall be an event of default under the Lease described herein.

(b) Aquila shall pay, or cause to be paid, to the City a Grant for the Project in the amounts, and on the dates set forth, on Exhibit C hereto.

(c) If one or more additional Project phases are pursued to be conveyed to the City and financed with additional bonds issued pursuant to the Acts, Aquila agrees to pay, or cause to be paid, annual Grants in addition to that required to be paid pursuant to subsection (b) above equal to \$2,210 per

\$1 million of Bonds issued to finance the additional Project phases, and an issuance fee to the City in an amount equal to .5% of the maximum principal amount of the additional bonds to be issued for the addition Project phases. The City acknowledges that Aquila is not obligated to finance part or all of the costs of any additional Project phases with additional bonds issued pursuant to the Acts.

(d) Notwithstanding the foregoing, at any time that property taxes or any alternative taxes meant to replace or supplement property taxes are imposed on or with respect to the Project (or any component thereof) while the City holds legal title to the Project, Aquila may reduce, or cause to be reduced, the amount of any annual Grant payments pursuant to subsections (b) and (c) above by the amount of annual property or alternative taxes imposed on or with respect to the Project (or any component thereof) and payable to the City or any other political subdivision; *provided that* no such reductions shall be made or effective during the pendency of any actions taken by the City in cooperation with Aquila pursuant to **Section 4.05** of this Agreement.

(e) Prior to the issuance of the Bonds, the City shall use the City's best efforts to obtain the cooperation and acceptance of the property tax exemptions contemplated in this Agreement of all affected taxing jurisdictions. The City and Aquila hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments and shall not serve to reduce or eliminate any other licenses or fees owing to the City or any other taxing jurisdiction with respect to the Project. Aquila hereby agrees to make payments with respect to all special assessment, licenses and fees that would otherwise be due with respect to the Project if such Project was not exempt from taxation.

(f) Any amounts due hereunder which are not paid when due shall bear interest at the interest rate of 10% per annum from the date such payment was first due.

Section 4.04. Option To Purchase the Project and the Property. Unless otherwise specified in writing by Aquila at the time the Bonds are issued, when all principal and interest due on the Bonds shall have been paid in full, Aquila or its permitted successors and assigns shall purchase the Project and the Property for \$1,000. In addition, if the terms of the Bonds permit the Bonds to be assumed by Aquila or its permitted successors and assigns, Aquila and its permitted successors and assigns shall also have the option to purchase the Project and the Property for \$1,000 upon such an assumption of the Bonds.

Section 4.05. Obligation of City with Respect to Tax Forbearance. The City agrees to take all actions within the City's control to obtain and/or maintain in effect the exemption from property taxes related to the Project and the Property referred to in this **Article IV**, including any filings required with any governmental authorities; provided, however, the City shall not be liable for any failure of the State of Missouri, any agency thereof or any other governmental taxing authority to recognize the exemption contemplated herein. The City covenants that the City will not voluntarily take any action that may cause or induce the levy or assessment of property taxes on the Project or the Property conveyed to the City pursuant to this Agreement or the Bond Documents. In the event such a levy or assessment should occur, the City shall, at Aquila's request and expense, fully cooperate with Aquila in all reasonable ways to prevent and/or remove any such levy or assessment. The City and Aquila covenant and agree that the property tax exemption contemplated in this Agreement and the issuance of the Bonds shall only apply to the City's fee title interest in the Project and the Property. Any property taxes levied against the interest of Aquila in the Project or the Property by any taxing authority shall be and remain solely the responsibility of the Aquila. In the event such a levy or assessment should occur, the City shall, at the request and expense of Aquila, fully cooperate with Aquila in all reasonable ways to prevent and/or challenge such levy or assessment.

ARTICLE V

COVENANTS, REPRESENTATIONS AND WARRANTIES OF AQUILA

Section 5.01. General. Aquila represents, warrants and covenants that as of the date of this Agreement and during the term of this Agreement, or such shorter period as may be expressly provided for below:

(a) Aquila is a Delaware corporation duly organized, validly existing and qualified to do business in Missouri;

(b) Aquila has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by Aquila of this Agreement has been duly authorized by all necessary corporate action, and does not violate the articles of incorporation or bylaws of Aquila, as the same may be amended and supplemented, or any applicable provision of law, nor does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which Aquila is now a party or by which Aquila is now or may become bound;

(d) except for those Aquila Approvals which must be obtained for the Project and the Bonds referred to in **Section 4.01** herein and the Litigation, there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or affecting Aquila which would impair its ability to perform under this Agreement; and

(e) except for approvals, permits, certificates or consents being contested in the Litigation, Aquila has obtained (or will, prior to the commencement of construction obtain) and shall maintain all other government approvals, permits, certificates and consents (including without limitation appropriate environmental approvals) necessary to conduct its business and to construct, complete and operate the Project.

Section 5.02. Compliance with Laws. To the best of Aquila's knowledge, the Property and the Project are and shall be in compliance with all applicable federal, state and local laws, statutes, ordinances, rules, regulations, executive orders and codes pertaining to or affecting the Project and the Property, including environmental laws. Aquila agrees that the City and its duly authorized agents shall have the right at reasonable times during business hours, subject to at least 48 hours advance notice and to Aquila's usual business proprietary, safety and security requirements, to enter upon the Project and the Property to examine and inspect the Project and the records of Aquila which demonstrate compliance with this Agreement.

Section 5.03. Survival of Covenants. All warranties, representations, covenants and agreements of Aquila contained in this **Article VI** (including, without limitation, Aquila's covenant to indemnify and hold harmless the City set forth in **Section 5.04** hereof) and elsewhere in this Agreement shall survive termination of this Agreement for any reason.

Section 5.04. Indemnification of City. Aquila shall indemnify, defend and save the City harmless from and against all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees and expenses, by or on behalf of any person, firm or corporation arising from the condition, conduct or management of, or from any work or thing done in, on or about, the Project or the Property during the term of the Lease and the Bonds, and against and from all claims, demands, costs, liabilities, damages or expenses, including attorneys' fees and expenses, arising during the term of the Lease from (a) any

condition of the Project or the Property, (b) any breach or default on the part of Aquila in the performance of any of its obligations under this Agreement or the Lease, (c) any action requested of the City by Aquila pursuant to the Lease or this Agreement, (d) any contract entered into in connection with the purchase, construction, extension or improvement of the Project, (e) any act of negligence of Aquila or of any of its agents, contractors, servants, employees or licensees, (f) any act of negligence of any assignee or sublessee of Aquila, or of any agents, contractors, servants, employees or licensees of any assignee or sublessee of Aquila.

Section 5.05. Sales Tax Exemption. The City will cooperate with Aquila and will execute such documentation as may be required in obtaining any applicable sales tax exemption for materials, goods and other personal property that may become part of the Project; provided, however, that the City makes no representation or warranty to Aquila as to the availability of any such exemption.

ARTICLE VI

REPRESENTATIONS AND WARRANTIES OF CITY

Section 6.01. General. The City represents:

(a) the City has the authority as a unit of government to execute and deliver this Agreement and to perform the City's obligations hereunder;

(b) the City has the right, power and authority to enter into, execute, deliver and perform this Agreement;

(c) the execution, delivery and performance by the City of this Agreement has been (or will be) duly authorized by all necessary action, and does not violate any applicable provision of law, nor does it constitute a breach of or default under or require any consent under any agreement, instrument or document to which the City is now a party or by which the City is now or may become bound;

(d) there are no actions or proceedings by or before any court, governmental commission, board, bureau or any other administrative agency pending, threatened or to the City's actual knowledge affecting the City which would impair the City's ability to perform under this Agreement, other than the Litigation.

Section 6.02. Survival of Covenants. All warranties, representations and covenants of the City contained in this Article VI or elsewhere in this Agreement shall be true, accurate and complete at the time of the City's execution, of this Agreement, and shall survive the execution, delivery and acceptance hereof by the parties hereto.

ARTICLE VII

DEFAULT AND REMEDIES

Section 7.01. Events of Default. If any one or more of the following events occurs and is continuing, it is hereby defined as and declared to be and to constitute an Event of Default hereunder:

(a) Aquila fails to materially perform any of its obligations hereunder for (i) a period of 30 days (or such longer period as the City and Aquila may agree in writing) following written notice to Aquila from the City of such failure, or (ii) if such failure is not subject to cure within

such 30 days, Aquila has failed to initiate action to cure such default and shall pursue such action diligently;

(b) Aquila breaches any material covenant contained herein and continues such breach for a period of 30 days (or such longer period as the City and Aquila may agree in writing) after the City gives written notice thereof to Aquila, specifying such breach and requiring it to be remedied; provided, that if such breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied, such breach shall not constitute an event of default if Aquila promptly upon receipt of such notice commences the curing of such breach and thereafter prosecutes and completes the same with due diligence and dispatch; or

(c) any representation of Aquila contained herein proves to be materially false or erroneous and is not corrected or brought into compliance within 30 days (or such longer period as the City and Aquila may agree in writing) after there has been given to Aquila by the City a written notice specifying such false or erroneous representation and requiring it to be remedied; provided, that if such default cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied, such default shall not constitute an event of default if Aquila shall promptly upon receipt of such notice commence the curing of such default and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 7.02. Remedies on Default. If any Event of Default referred to in **Section 7.01** hereof has occurred and is continuing, then the City may, then or at any time thereafter (subject to any restrictions under the Lease), and while such default is continuing, provide notice to appropriate parties under the Lease that it has elected to (a) cause all amounts payable with respect to the Bonds for the remainder of the Lease Term to become due and payable, as provided in the Indenture and (b) terminate the Lease on a date specified therein, which date shall not be earlier than 30 days after such notice is given, and if all defaults have not then been cured, on the date so specified, the Owners of the Bonds shall tender or be deemed to have tendered the outstanding principal amount of Bonds to the Trustee for cancellation with instructions that such tender is in lieu of payment in accordance with the Lease, the Lease shall thereupon be terminated, and the City will convey the Project in accordance with the Lease. In addition, the City may pursue any other applicable legal remedy.

Section 7.03 Enforcement. The obligation to make the Grant payments provided in this Agreement may be enforced by the City or any taxing jurisdictions that would benefit from the payments. In the event of litigation pertaining to the enforcement of this Agreement, the losing party shall pay all costs of litigation, including reasonable attorneys' fees and expenses.

ARTICLE VIII

NOTICES

Unless otherwise specified, any notice, demand or request required hereunder shall be given in writing at the addresses set forth below, by any of the following means: (a) personal service; (b) telecopy or facsimile; (c) overnight courier; or (d) registered or certified mail, return receipt requested.

If to the City: City of Peculiar, Missouri
 600 Schug Ave.
 Peculiar, Missouri 64078
 Attn: City Administrator

With a copy to: E. Sid Douglas III, Esq.
Gilmore & Bell, P.C.
2405 Grand, Suite 1100
Kansas City, Missouri 63102

If to Aquila: Aquila, Inc.
10700 E. 350 Highway
Raytown, Missouri 64138
Attn: Beth Armstrong

With a copy to: Aquila, Inc.
20 West Ninth Street
Kansas City, Missouri 64105
Attn: General Counsel

Such addresses may be changed by notice to the other parties given in the same manner provided above. Any notice, demand, or request sent pursuant to either clause (a) or (b) hereof shall be deemed received upon such personal service or upon dispatch.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Mutual Assistance. The City and Aquila agree to take such actions as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent. In addition, if legislation is proposed by or in any governmental body having jurisdiction over the Project with the effect of limiting the ability of the City to issue the Bonds to finance the Project, the City agrees to use its best efforts to issue the Bonds prior to the effective date of any such legislation. Each party shall give assurances, provide information, take actions and execute and deliver documents and instruments as, in each case, are reasonably requested by the other party and are within its power to give, provide and take to give full force and effect to the agreements and other provisions contained in this Agreement.

Section 9.02. Amendment. This Agreement may not be amended without the prior written consent of the parties hereto.

Section 9.03. Entire Agreement. This Agreement (including the Exhibits attached hereto, which are hereby incorporated herein by reference) constitutes the entire Agreement between the parties hereto and supersedes all prior agreements, negotiations and discussions between the parties relative to the subject matter hereof.

Section 9.04. Limitation of Liability. No member, official or employee of the City shall be personally liable to Aquila, any Affiliates, any Financing Party or any Lender or any successor in interest to such parties in the event of any default or breach by the City or for any amount which may become due to Aquila from the City or any successor in interest or on any obligation under the terms of this Agreement.

Section 9.05. Waiver. Waiver by the City or Aquila with respect to any breach or default under this Agreement shall not be considered or treated as a waiver of the rights of the respective party with respect to any other breach or default or with respect to any particular breach or default, except to the extent specifically waived by the City or Aquila in writing.

Section 9.06. Remedies Cumulative. The remedies of a party hereunder are cumulative, and the exercise of any one or more of the remedies provided for herein shall not be construed as a waiver of any other remedies of such party unless specifically so provided herein.

Section 9.07. Opportunity to Cure Preserved. In the event of any default in or breach of any term or conditions of this Agreement by either party, or any successor, the aggrieved party, prior to instituting any action at law or in equity, shall give written notice to the breaching or defaulting party (or successor) specifying, in the opinion of the aggrieved party the nature of the breach, and the defaulting or breaching party (or successor) shall, upon receipt of such written notice from the other party, proceed immediately to cure or remedy such default or breach, and, shall, in any event, within thirty (30) days after receipt of notice, commence to cure or remedy such default. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may then institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to proceedings to compel specific performance by the defaulting or breaching party.

Section 9.08. Disclaimer. Nothing contained in this Agreement nor any act of the City shall be deemed or construed by any of the parties, or by any third person, to create or imply any relationship of third-party beneficiary, principal or agent, limited or general partnership or joint venture, or to create or imply any association or relationship involving the City.

Section 9.09. Headings. The paragraph and section headings contained herein are for convenience only and are not intended to limit, vary, define or expand the content thereof.

Section 9.10. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

Section 9.11. Severability. If any provision in this Agreement, or any paragraph, sentence, clause, phrase, word or the application thereof, in any circumstance, is held invalid by a court of competent jurisdiction, this Agreement shall be construed as if such invalid part were never included herein and the remainder of this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

Section 9.12. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Missouri, without regard to its conflicts of law principles.

Section 9.13. Assignment. Except in connection with the transfer of this Agreement to an Affiliate, a Financing Party or a Lender, which is expressly authorized by the City, Aquila may not sell, assign or otherwise transfer its interest in this Agreement in whole or in part without the written consent of the City, which consent shall not be unreasonably withheld. Any successor in interest to Aquila under this Agreement shall certify in writing to the City its agreement to abide by all remaining executory terms of this Agreement (and the representations, warranties and covenants related thereto) through the term of this Agreement, or such other period as may be expressly provided for herein. Upon such successor's certification, Aquila shall be released from the performance of such executory terms (and the representations, warranties and covenants related thereto other than the City's right to indemnification under **Section 6.04**, hereof).

Section 9.14. Binding Effect. This Agreement shall be binding upon Aquila, the City and their respective permitted successors and permitted assigns (as provided herein).

Section 9.15. Force Majeure. Neither the City nor Aquila nor any permitted successor in interest to either of them shall be considered in breach of or in default of its obligations under this Agreement in the event of any delay caused by damage or destruction by fire or other casualty, strike, shortage of material, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or for an abnormal duration, tornadoes or cyclones, and other events or conditions beyond the reasonable control of the party affected which in fact interferes with the ability of such party to discharge its obligations hereunder. Any delay described under this section shall result in a day-for-day extension of any obligations, deadlines or dates set forth in this Agreement that are directly affected by such delay. The individual or entity relying on this section with respect to any such delay shall, upon the occurrence of the event causing such delay, immediately give written notice to the other parties to this Agreement.

Section 9.16. Approval. Wherever this Agreement provides for the approval or consent of the City, or any matter is to be to the City's satisfaction, unless specifically stated to the contrary, such approval, consent or satisfaction shall be made, given or determined by the City in writing and in the reasonable discretion thereof. The City Administrator or other persons designated by the City shall act for the City in making all administrative or ministerial decision related to this Agreement for the City.

Section 9.17. Term of Agreement. This Agreement shall continue in force for so long as (a) any Bonds shall remain outstanding; or (b) any phase of the Project is titled in the name of the City. This Agreement shall terminate on the earlier of (x) retirement of all Bonds issued with respect to all phases of the Project; or (y) three years from the Effective Date, provided that no Bonds have been issued; or (z) the date of termination by Aquila pursuant to **Section 3.01**.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on or as of the day and year first above written.

AQUILA, INC.

By: _____
Name: Leslie J. Parrette, Jr.
Title: Senior Vice President, General Counsel
and Secretary

CITY OF PECULIAR, MISSOURI

By: _____
Name: George Lewis
Title: Mayor

STATE OF MISSOURI)
)
COUNTY OF JACKSON) ss.

I, the undersigned, a notary public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that Leslie J. Parrette, Jr., personally known to me to be the Senior Vice President, General Counsel and Secretary of **AQUILA, INC.** ("Aquila"), and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument, pursuant to the authority given to him by Aquila , as his free and voluntary act and as the free and voluntary act of Aquila, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 30th day of December, 2004.

Notary Public

[SEAL]

My Commission Expires: _____

STATE OF MISSOURI)
)
COUNTY OF CASS) ss.

I, the undersigned, a notary public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that George Lewis, personally known to me to be the Mayor of the **CITY OF PECULIAR, MISSOURI** and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed, sealed, and delivered said instrument, pursuant to the authority given to him by the Board of Aldermen of the City of Peculiar, Missouri as his free and voluntary act and as the free and voluntary act of the City of Peculiar, Missouri, for the uses and purposes therein set forth.

GIVEN under my hand and official seal this 30th day of December, 2004.

Notary Public

[SEAL]

My Commission Expires: _____

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

South Harper Property

A TRACT OF LAND SITUATED IN THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 29, TOWNSHIP 45 NORTH, RANGE 32 WEST OF THE FIFTH PRINCIPAL MERIDIAN AND THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 32, TOWNSHIP 45 NORTH, RANGE 32 WEST OF THE FIFTH PRINCIPAL MERIDIAN, EXCEPT THAT PART DEEDED TO CITIES SERVICE GAS COMPANY BY DEED RECORDED IN BOOK 398, PAGE 518, RECORDED CASS COUNTY, MISSOURI AND EXCEPT EASEMENTS OF RECORD, ALL IN TOWNSHIP 45, RANGE 32 ALL IN CASS COUNTY, MISSOURI.

North Property

PART OF A TRACT OF LAND DESCRIBED IN BOOK 689, PAGE 71 IN THE OFFICE OF THE RECORDER OF DEEDS IN CASS COUNTY, MISSOURI, BEING PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 45, RANGE 32, CASS COUNTY, MISSOURI, DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 5, AFORESAID, RUN THENCE SOUTH $89^{\circ}35'49''$ EAST ALONG THE NORTH LINE THEREOF, 400.00 FEET; THENCE SOUTH $17^{\circ}21'24''$ EAST, 1189.30 FEET; THENCE NORTH $89^{\circ}43'10''$ EAST, 570.00 FEET; THENCE SOUTH $0^{\circ}14'25''$ EAST, PARALLEL WITH THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 5, 1320.00 FEET TO A POINT IN AN EXISTING FENCE LINE AS NOW LOCATED; THENCE SOUTH $89^{\circ}43'10''$ WEST ALONG SAID EXISTING FENCE LINE, 1320.00 FEET TO A POINT IN THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 5; THENCE NORTH $0^{\circ}14'25''$ WEST ALONG SAID WEST LINE, 2461.64 FEET TO THE POINT OF BEGINNING. CONTAINS 55.03 ACRES, MORE OR LESS, SUBJECT TO THE RIGHT OF WAY OF EAST 203RD STREET AND SOUTH KNIGHT ROAD, AND SUBJECT TO ANY EXISTING EASEMENTS.

EXHIBIT B
PROJECT DESCRIPTION

South Harper Peaking Facility

The South Harper Peaking Facility will comprise the Turbines with associated transformers and breakers. Continuous emissions monitoring equipment will be integrated into each turbine unit, and natural gas fuel will be supplied through on-site infrastructure and a connecting interstate pipeline system. The facility will be capable of producing 315 MWs of electric "peaking" power. A 161/69 kV substation will be located adjacent to the peaking facility for transmission purposes.

Peculiar 345 kV Substation

The Peculiar 345/161 kV substation, which will be located five miles north of the South Harper peaking facility, will comprise a 345/161 KV transformer, breakers, and associated electrical transmission equipment. The substation will provide the interconnection between the existing 345 kV system and a 161 kV system.

EXHIBIT C
GRANT SCHEDULE

Payment Date	Grant
May 1, 2005	\$ 214,455*
September 1, 2005	\$ 241,832
December 31, 2006	\$ 241,832
December 31, 2007	\$ 241,832
December 31, 2008	\$ 241,832
December 31, 2009	\$ 241,832
December 31, 2010	\$ 241,832
December 31, 2011	\$ 241,832
December 31, 2012	\$ 241,832
December 31, 2013	\$ 241,832
December 31, 2014	\$ 241,832
December 31, 2015	\$ 241,832
December 31, 2016	\$ 241,832
December 31, 2017	\$ 241,832
December 31, 2018	\$ 241,832
December 31, 2019	\$ 241,832
December 31, 2020	\$ 241,832
December 31, 2021	\$ 241,832
December 31, 2022	\$ 241,832
December 31, 2023	\$ 241,832
December 31, 2024	\$ 241,832
December 31, 2025	\$ 241,832
December 31, 2026	\$ 241,832
December 31, 2027	\$ 241,832
December 31, 2028	\$ 241,832
December 31, 2029	\$ 241,832
December 31, 2030	\$ 241,832
December 31, 2031	\$ 241,832
December 31, 2032	\$ 228,143
December 31, 2033	\$ 182,515
December 31, 2034	\$ 91,257
June 1, 2035	\$ 54,166

* This Grant will be payable only if the City has been conveyed the Project on or before January 1, 2005.

Grants will be reduced on a "rolling," dollar-for-dollar basis by amounts paid by Aquila to the City (or its designees) concerning litigation to which the City is party and which relates to the Bonds or any other aspect of the Chapter 100 financing contemplated by the Agreement. For purposes of illustration only, if (a) the City has been conveyed the Project on or before January 1, 2005 and (b) on March 31, 2005, Aquila reimburses the City for \$300,000 of legal fees incurred in connection with litigation over the City's right to issue Bonds without a vote of its residents, then Aquila would be credited for having paid

to the City (x) \$214,455 on May 1, 2005 and (y) \$85,545 ($\$300,000 - \$214,455 = \$85,545$) on September 1, 2005, which would result in Aquila owing only \$156,285 to the City on September 1, 2005. This process will continue until all applicable Aquila credits have been used up or, if sooner, the date on which the Bonds are redeemed by Aquila.