

(a) At any time prior to the stated maturity thereof, at the option of the City, upon instructions from the Company, at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment.

(b) At any time prior to the stated maturity thereof, to the extent amounts are deposited into the Bond Fund in accordance with clauses (c) through (g) of **Section 602** hereof, at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment.

(c) Upon the payment of all Grants under the Economic Development Agreement, the Series 2004 Bond shall be subject to mandatory redemption at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment.

(d) At its option, the Company may at any time deliver to the Trustee for cancellation any Bonds owned by the Company and not previously paid, and the Company shall receive a credit against the amounts payable by the Company under the Lease for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

Section 303. Effect of Call for Redemption. Prior to or on the date fixed for redemption, funds or Government Securities shall be placed with the Trustee which are sufficient to pay the Bonds called for redemption and accrued interest thereon, if any, to the redemption date. Upon the happening of the above conditions and appropriate written notice having been given, the Bonds or the portions of the principal amount of Bonds thus called for redemption shall cease to bear interest on the specified redemption date, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture. If the Bonds are fully redeemed prior to maturity and an amount of money equal to the Trustee's and the Paying Agent's agreed to and reasonable fees and expenses hereunder accrued and to accrue in connection with such redemption is paid or provided for, the City shall, at the Company's direction, deliver to the Company the items described in **Section 11.2** of the Lease.

Section 304. Notice of Redemption. In the event the Bonds are to be called for redemption as provided in **Section 302 (a) or (b)** hereof, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion of the Bonds in accordance with **Section 302(a) or (b)** hereof at least 40 days (10 days if the Company or any entity controlled by or under common control with the Company is the sole Bondowner) prior to the scheduled redemption date. The Trustee shall then deliver written notice to the Bondowners at least 30 days (five days if the Company or any entity controlled by or under common control with the Company is the sole Bondowner) prior to the scheduled redemption date by facsimile and by first class mail stating the date upon which the Bonds will be redeemed and paid. The Bonds are subject to redemption pursuant to **Section 302(c) and (d)** without any request or notice from the Company.

ARTICLE IV

FORM OF BONDS

Section 401. Form Generally. The Series 2004 Bond and the Trustee's Certificate of Authentication to be endorsed thereon shall be issued in substantially the forms set forth in this Article. Additional Bonds and the Trustee's Certificate of Authentication to be endorsed thereon shall be in substantially the form set forth in this Article, with such necessary or appropriate variations, omissions and insertions as are permitted or required by this Indenture or any Supplemental Indenture. The Bonds may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable

rules and regulations of any governmental authority or any custom, usage or requirements of law with respect thereto.

Section 402. Form of Bond.

(FORM OF BOND)

This Bond has not been registered under the Securities Act of 1933, as amended, or any state securities laws, and this Bond may not be transferred unless the City and the Trustee are furnished a written legal opinion from counsel acceptable to the City and the Trustee, to the effect that such transfer is exempt from the registration requirements of the Securities Act of 1933, as amended, and any applicable state securities laws. This Bond may be transferred to any successor to Aquila, Inc. or any entity owned by or under common ownership with Aquila, Inc., without the necessity of obtaining such an opinion. THIS BOND OR ANY PORTION HEREOF MAY BE SOLD, TRANSFERRED, ASSIGNED, PLEDGED OR NEGOTIATED ONLY AS PROVIDED IN THE HEREIN DESCRIBED INDENTURE.

**UNITED STATES OF AMERICA
STATE OF MISSOURI**

**CITY OF PECULIAR, MISSOURI
TAXABLE INDUSTRIAL REVENUE BOND
(AQUILA PROJECT)
SERIES 2004**

CITY OF PECULIAR, MISSOURI, a fourth class city organized and existing under the laws of the State of Missouri (the "City"), for value received, promises to pay, but solely from the source hereinafter referred to, to

AQUILA, INC.

or registered assigns, on June 1, 2035, the principal amount of

ONE HUNDRED FORTY MILLION DOLLARS

or such lesser amount as may be outstanding hereunder as reflected on the Table of Cumulative Outstanding Principal Amount attached hereto and recorded as provided in the Trust Indenture dated as of December 30, 2004 (the "Indenture," and capitalized terms not defined herein have the meanings ascribed to them in the Indenture), between the City and Commerce Bank, N.A., as Trustee (the "Trustee"). The registered owner shall note the principal amount outstanding hereunder in the Table of Cumulative Outstanding Principal Amount attached hereto (the "Table"), provided, however, that the records maintained by the Trustee shall be the official record of the Cumulative Outstanding Principal Amount of this Bond. The City agrees to pay such principal amount to the registered owner in any coin or currency of the United States of America which on the date of payment thereof is legal tender for the payment of public and private debts, and in like manner to pay to the registered owner hereof, either by check or draft mailed to the registered owner at a stated address as it appears on the bond registration books of the City kept by the Trustee under the Indenture or, in certain situations authorized in the Indenture, by internal bank transfer or by wire transfer to an account in a commercial bank or savings institution located in the continental United States, interest on the Cumulative Outstanding Principal Amount at the rate of 8% per annum payable in arrears on each December 31 commencing on December 31, 2005, and continuing thereafter until the said Cumulative Outstanding Principal Amount is paid in full. Interest shall be computed on the basis of a year of 360 days

consisting of 12 months of 30 days each. Principal on this Bond shall be payable in full on June 1, 2035, together with the accrued interest thereon.

The registered owner may from time to time enter the respective amounts deposited into the Construction Fund pursuant to the terms of the Indenture under the column headed "Principal Amount Issued" on the Table and may enter the aggregate principal amount of this Bond then outstanding under the column headed "Cumulative Outstanding Principal Amount" on the Table. On each date upon which a portion of the Cumulative Outstanding Principal Amount is paid to the registered owner hereof pursuant to the redemption provisions of the Indenture, the registered owner may enter the principal amount paid on this Bond under the column headed "Principal Amount Paid Pursuant to Optional Redemption Provisions" on the Table and may enter the then outstanding principal amount of this Bond under the column headed "Cumulative Outstanding Principal Amount" on the Table. However, the records maintained by the Trustee as to the principal amount issued or principal amounts paid on this Bond shall be the official records of the Cumulative Outstanding Principal Amount for all purposes.

THIS BOND is a duly authorized Bond of the City designated "City of Peculiar, Missouri Taxable Industrial Revenue Bonds (Aquila Project) Series 2004," in the maximum aggregate principal amount of \$140,000,000, to be issued for the purpose of providing funds to pay the cost of purchasing, constructing, installing and equipping the Project, to be leased to the Company under the terms of the Lease, all pursuant to the authority of and in full compliance with the provisions, restrictions and limitations and Constitution and statutes of the State of Missouri, including the Act, and pursuant to proceedings duly had by the governing body of the City.

THIS BOND is issued under and is equally and ratably secured and entitled to the protection given by the Indenture. Subject to the terms and conditions set forth therein, the Indenture permits the City to issue Additional Bonds secured on a parity with this Bond. Reference is hereby made to the Indenture for a description of the provisions, among others, with respect to the nature and extent of the security for the Bonds, the rights, duties and obligations of the City, the Trustee and the Bondowners, and the terms upon which the Bonds are issued and secured.

THIS BOND shall be subject to redemption and payment in whole or in part, as follows:

(a) At any time prior to the stated maturity thereof, at the option of the City, upon instructions from the Company, at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment.

(b) At any time prior to the stated maturity thereof, to the extent amounts are deposited into the Bond Fund in accordance with clauses (c) through (g) of Section 602 of the Indenture, at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment.

(c) Upon the payment of all Grants under the Economic Development Agreement, the Bond shall be subject to mandatory redemption at a price equal to the par value thereof being redeemed, plus accrued interest thereon, without premium or penalty, to the date of payment.

(d) At its option, the Company may at any time deliver to the Trustee for cancellation any Bonds owned by the Company and not previously paid, and the Company shall receive a credit against the amounts payable by the Company under the Lease for the redemption of such Bonds in an amount equal to the principal amount of the Bonds so tendered for cancellation, plus accrued interest.

In the event the Bond is to be called for redemption as provided in paragraphs (a) or (b) above, the Company shall deliver written notice to the City and the Trustee that it has elected to redeem all or a portion

of the Bonds in accordance with paragraph (a) or (b) above at least 40 days (10 days if the Company or any entity controlled by or under common control with the Company is the sole Bondowner) prior to the scheduled redemption date. This Bond is subject to redemption pursuant to (c) or (d) above without any request or notice from the Company. The Trustee shall then deliver written notice to the owner of this Bond at least 30 days (five days if the Company or any entity controlled by or under common control with the Company is the sole Bondowner) prior to the scheduled redemption date by first class mail stating the date upon which the Bonds will be redeemed and paid.

THE BOND, including interest thereon, is a special obligation of the City and is payable solely out of the rents, revenues and receipts derived by the City from the Project and the Lease of the Project and not from any other fund or source of the City, and is secured by a pledge and assignment of the Project and of such rents, revenues and receipts, including all rentals and other amounts to be received by the City under and pursuant to the Lease, all as provided in the Indenture. The Bond does not constitute a general obligation of the City or the State of Missouri, and neither the City nor said State shall be liable thereon, and the Bond shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and is not payable in any manner by taxation. Pursuant to the provisions of the Lease, rental payments sufficient for the prompt payment when due of the principal of and interest on the Bond is to be paid by the Company directly to the Trustee for the account of the City and deposited in a special account created by the City and designated the "City of Peculiar, Missouri, Taxable Industrial Revenue Bond Fund - Aquila Project."

THE OWNER of this Bond shall have no right to enforce the provision of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in or defend any suit or other proceedings with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of all the Bonds issued under the Indenture and then Outstanding may become or may be declared due and payable before the stated maturity thereof, together with interest accrued thereon. Modifications or alterations of this Bond or the Indenture may be made only to the extent and in the circumstances permitted by the Indenture.

THIS BOND is transferable, as provided in the Indenture, only upon the books of the City kept for that purpose at the above-mentioned office of the Trustee by the registered owner hereof in person or by such person's duly authorized attorney, upon surrender of this Bond together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or such person's duly authorized attorney, and thereupon a new fully registered Bond or Bonds, without coupons, and in the same aggregate principal amounts, shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City, the Trustee and any Paying Agent may deem and treat the person in whose name this Bond is registered as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

THIS BOND is issuable in the form of one fully registered Bond without coupons in the maximum principal denomination of \$140,000,000. THIS BOND shall not be valid or become obligatory for any purposes or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been executed by the Trustee.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the execution and delivery of the Indenture and the issuance of this Bond do exist, have happened and have been performed in due time, form and manner as required by the Constitution and laws of the State of Missouri.

IN WITNESS WHEREOF, City of Peculiar, Missouri, has caused this Bond to be executed in its name by the manual or facsimile signature of its Mayor, attested by the manual or facsimile signature of its City Clerk and its corporate seal to be affixed hereto or imprinted hereon, and has caused this Bond to be dated as of December __, 2004.

CITY OF PECULIAR, MISSOURI

By _____
Mayor

(SEAL)

ATTEST:

By _____
City Clerk

TABLE OF CUMULATIVE OUTSTANDING PRINCIPAL AMOUNT

| <u>Date</u> | <u>Principal Amount Issued</u> | <u>Principal Amount Paid Pursuant to Redemption Provisions</u> | <u>Cumulative Outstanding Principal Amount</u> | <u>Notation Made By</u> |
|-------------|--|--|--|---------------------------------|
|-------------|--|--|--|---------------------------------|

(FORM OF ASSIGNMENT)
(NOTE RESTRICTIONS ON TRANSFERS)

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Print or Typewrite Name, Address and Social Security or
other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints
_____ attorney to transfer the within Bond on the books kept by the Trustee
for the registration and transfer of Bonds, with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature to this assignment must
correspond with the name as it appears upon the
face of the within Bond in every particular.

Signature Guaranteed By:

(Name of Eligible Guarantor Institution as
defined by SEC Rule 17 Ad-15 (17 CFR 240.17
Ad-15))

By _____
Title: _____

Section 403. Form of Certificate of Authentication.

(FORM OF TRUSTEE'S CERTIFICATE OF AUTHENTICATION)

CERTIFICATE OF AUTHENTICATION

This Bond is the Taxable Industrial Revenue Bond (Aquila Project), described in the Trust Indenture. The effective date of registration of this Bond is set forth below.

COMMERCE BANK, N.A.

Date

By _____
Name: _____
Title: _____

ARTICLE V

CUSTODY AND APPLICATION OF BOND PROCEEDS

Section 501. Creation of Construction Fund. There is hereby created and ordered to be established in the custody of the Trustee a special trust fund in the name of the City to be designated the "City of Peculiar, Missouri, Construction Fund – Aquila Project" (herein called the "**Construction Fund**").

Section 502. Deposits into the Construction Fund. The proceeds of the sale of the Bond, including Additional Payments provided for in the Bond Purchase Agreement, when received, excluding such amounts required to be paid into the Bond Fund pursuant to **Section 602** hereof, shall be deposited by the Trustee into the Construction Fund. Any money received by the Trustee from any other source for the purpose of acquisition, construction, installation or equipping of the Project shall also be deposited into the Construction Fund.

Section 503. Disbursements from the Construction Fund.

(a) The moneys in the Construction Fund shall be disbursed by the Trustee for the payment of, or reimbursement to the Company for payment of, Project Costs upon receipt of requisition certificates signed by the Company in accordance with the provisions of **Article IV** of the Lease, and the Trustee hereby covenants and agrees to disburse such moneys in accordance with such provisions. In paying any requisition under this Section, the Trustee may rely as to the completeness and accuracy of all statements in such requisition certificate if such requisition certificate is signed by the Authorized Company Representative. If the City so requests in writing, a copy of each requisition certificate submitted to the Trustee for payment under this Section shall be promptly provided by the Trustee to the City.

(b) If required, the City covenants and agrees to take all necessary and appropriate action promptly in approving and ordering all such disbursements. The Trustee is hereby authorized and directed to make disbursements in the manner and as provided for by the aforesaid provisions of the Lease.

(c) The Trustee shall keep and maintain adequate records pertaining to the Construction Fund and all disbursements therefrom, and shall provide a statement of receipts and disbursements with respect thereto to the Company on a monthly basis. After the Project has been completed and a certificate of payment of all costs filed as provided in **Section 504** hereof, the Trustee, to the extent it has not already done so pursuant to this Section or **Section 1012** hereof, shall file a final statement of receipts and disbursements with respect thereto with the City and the Company.

Section 504. Completion of the Project. The completion of the Project and payment of all costs and expenses incident thereto shall be evidenced by the filing with the Trustee of the certificate required by the provisions of **Section 4.5** of the Lease. As soon as practicable thereafter, any balance remaining in the Construction Fund shall without further authorization be deposited in the Bond Fund.

Section 505. Disposition Upon Acceleration. If the principal of the Bonds shall have become due and payable pursuant to **Section 902** of this Indenture, upon the date of payment by the Trustee of any moneys due as hereinafter provided in **Article IX** provided, any balance remaining in the Construction Fund shall without further authorization be deposited in the Bond Fund by the Trustee with notice to the City and to the Company of such action.

ARTICLE VI

REVENUES AND FUNDS

Section 601. Creation of the Bond Fund. There is hereby created and ordered established in the custody of the Trustee a special trust fund in the name of the City to be designated the "City of Peculiar, Missouri, Taxable Industrial Revenue Bond Fund -- Aquila Project" (herein called the "**Bond Fund**").

Section 602. Deposits Into the Bond Fund. The Trustee shall deposit into the Bond Fund, as and when received, (a) all accrued interest on the Bonds, if any, paid by the purchaser of the Bonds; (b) all Basic Rent payable by the Company to the City under **Section 5.1** of the Lease and amounts due under **Section 5.2** of the Lease; (c) any amount in the Construction Fund to be transferred to the Bond Fund pursuant to **Section 504** hereof upon completion of the Project or pursuant to **Section 505** hereof upon acceleration of the Bonds; (d) the balance of any Net Proceeds (as defined in the Lease) of condemnation awards or insurance received by the Trustee pursuant to **Article IX** of the Lease; (e) the amounts to be deposited in the Bond Fund pursuant to **Section 9.1(g)** and **9.2(c)** of the Lease; (f) all interest and other income derived from investments of Bond Fund moneys as provided in **Section 702** hereof; and (g) all other moneys received by the Trustee under and pursuant to any of the provisions of the Lease when accompanied by directions from the person depositing such moneys that such moneys are to be paid into the Bond Fund.

The Trustee shall notify the Company in writing, at least 15 days prior to each date on which a payment is due under **Section 5.1** of the Lease, of the amount that is payable by the Company pursuant to such Section.

Section 603. Application of Moneys in the Bond Fund.

(a) Except as provided in this **Section 603** and **Section 908** hereof or in **Section 4.6(a)** of the Lease, moneys in the Bond Fund shall be expended solely for the payment of the principal of and the interest on the Bonds as the same mature and become due or upon the redemption thereof prior to maturity; provided, however, that any amounts received by the Trustee as Additional Rent under **Section 5.2** of the

ARTICLE VII

SECURITY FOR DEPOSITS AND INVESTMENT OF FUNDS

Section 701. Moneys to be Held in Trust. All moneys deposited with or paid to the Trustee for account of the Bond Fund or the Construction Fund under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and the Lease, and, until used or applied as herein or therein provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest or any moneys received hereunder except such as may be agreed upon.

Section 702. Investment of Moneys in Construction Fund and Bond Fund. Moneys held in the Construction Fund and the Bond Fund shall, pursuant to written direction of the Company, signed by the Authorized Company Representative, be separately invested and reinvested by the Trustee in Investment Securities which mature or are subject to redemption prior to the date such funds will be needed. In the event the Company fails to provide written directions concerning investment of moneys held in the Construction Fund and the Bond Fund, the Trustee may invest in such Investment Securities specified in paragraph (e) of the definition of Investment Securities, provided they mature or are subject to redemption prior to the date such funds will be needed. Any such Investment Securities shall be held by or under the control of the Trustee and shall be deemed at all times a part of the fund in which such moneys are originally held, and the interest accruing thereon and any profit realized from such Investment Securities shall be credited to such fund, and any loss resulting from such Investment Securities shall be charged to such fund. After the Trustee has notice pursuant to **Section 1001(h)** of this Indenture of the existence of an Event of Default, the Trustee shall direct the investment of moneys in the Bond Fund and the Construction Fund until the Event of Default has been remedied or waived, as the case may be. The Trustee shall sell and reduce to cash a sufficient amount of such Investment Securities whenever the cash balance in any Fund is insufficient for the purposes of such Fund. In determining the balance in any Fund, investments in such Fund shall be valued at their fair market value as of the most recent Payment Date. The Trustee may make any and all investments permitted by the provisions of this Section through its own bond department or any affiliate or short-term investment department.

Section 703. Record Keeping. The Trustee shall maintain records designed to show compliance with the provisions of this Article and with the provisions of **Article VI** for at least six years after the payment of all of the Outstanding Bonds.

ARTICLE VIII

GENERAL COVENANTS AND PROVISIONS

Section 801. Payment of Principal and Interest. The City covenants and agrees that it will, but solely from the rents, revenues and receipts derived from the Project and the Lease as described herein, deposit or cause to be deposited in the Bond Fund sufficient sums payable under the Lease promptly to meet and pay the principal of and the interest on the Bonds as they become due and payable at the place, on the dates and in the manner provided herein and in the Bonds. The City covenants and agrees that it will use its best efforts to cause the Project to be continuously and sufficiently leased as a revenue and income-providing undertaking. Should there be a default under the Lease with the result that the right of possession of the Project is returned to the City, the City shall fully cooperate with the Trustee and with the Bondowners to the end of fully protecting the rights and security of the Bondowners and shall diligently proceed in good faith and use its best efforts to secure another tenant for the Project to the end that at all times sufficient rents, revenues and receipts will be derived from the Project promptly to meet and pay the

principal of and the interest on the Bonds as they become due and payable. Nothing herein shall be construed as requiring the City to operate the Project as a business other than as lessor pursuant to the conduit financing provided herein and pursuant to the Lease or to use any funds or revenues from any source other than funds and revenues derived from the Project.

Section 802. Authority to Execute Indenture and Issue Bonds. The City represents and covenants that it is duly authorized under the Constitution and laws of the State of Missouri to execute this Indenture, to issue the Series 2004 Bond and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Series 2004 Bond has been duly and effectively taken; that the Series 2004 Bond is and will be valid and enforceable obligations of the City according to the import thereof.

Section 803. Performance of Covenants. The City covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Bonds and in all proceedings of its governing body pertaining thereto. The Trustee may take such actions as it deems appropriate to enforce all such covenants, undertakings, stipulations and provisions of the City hereunder.

Section 804. Instruments of Further Assurance. The City covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such Supplemental Indentures and such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better pledging and assigning unto the Trustee the property and revenues herein described to the payment of the principal of and interest, if any, on the Bonds. The City covenants and agrees that, except as herein and in the Lease provided, it will not assign, sell, convey, pledge, mortgage, encumber or otherwise dispose of any part of the Project or the rents, revenues and receipts derived therefrom or from the Lease, or of its rights under the Lease.

Section 805. Payment of Taxes and Charges. The City acknowledges that pursuant to the provisions of **Section 5.2** of the Lease, the Company has agreed to pay, as the same respectively become due, all taxes, assessments and other governmental charges at any time lawfully levied or assessed upon or against the Project or any part thereof.

Section 806. Insurance. The City acknowledges that pursuant to the provisions of **Article VII** of the Lease, the Company has agreed at its own expense to keep the Project constantly insured to the extent provided for therein.

Section 807. Maintenance and Repair. The City acknowledges that pursuant to the provisions of **Section 6.1** of the Lease, the Company has agreed at its own expense to cause the Project to be maintained and kept in good repair and reasonably safe operating condition, and that pursuant to **Section 8.3** of the Lease the Company may, at its own expense, make from time to time additions, changes and alterations to the Project under the terms and conditions set forth therein.

Section 808. Recordings and Filings. The City hereby authorizes the Trustee to file all appropriate financing and continuation statements as may be required under the Uniform Commercial Code in order to fully preserve and protect the security of the Bondowners and the rights of the Trustee hereunder. The City will cooperate in causing this Indenture and all Supplemental Indentures, the Lease and all Supplemental Leases, the Deed of Trust and any supplement to the Deed of Trust and all other security instruments to be recorded and filed in such manner and in such places as may be required by law in order to fully preserve and protect the security of the Bondowners and the rights of the Trustee hereunder.

Section 809. Inspection of Project Books. The City covenants and agrees that all books and documents in its possession relating to the Project and the rents, revenues and receipts derived from the Project shall at all times be open to inspection by such accountants or other agencies as the Trustee may from time to time designate.

Section 810. Enforcement of Rights Under the Lease. The City covenants and agrees that it shall enforce all of its rights and all of the obligations of the Company (at the expense of the Company) under the Lease to the extent necessary to preserve the Project in good repair and reasonably safe operating condition, and to protect the rights of the Trustee and the Bondowners hereunder with respect to the pledge and assignment of the rents, revenues and receipts coming due under the Lease; provided that, the City and the Trustee, as its assignee, shall refrain from enforcing any such right or obligation (except for the rights of the City or the Trustee to receive payments owing to either of them for their own account under the Indenture, the Lease, the Deed of Trust, the Economic Development Agreement or any other agreement related to the Bonds or for their rights of indemnification or to be protected from liabilities by insurance policies required by the Lease) if so directed in writing by 100% of the Bondowners. The City agrees that the Trustee, as assignee of the rentals and other amounts to be received by the City and paid by the Company under the Lease, or in its name or in the name of the City, may enforce all rights of the City to receive such rentals and other amounts and all obligations of the Company to pay such rentals and other amounts under and pursuant to the Lease for and on behalf of the Bondowners, whether or not the City is in default hereunder. So long as not otherwise provided in this Indenture, the Company shall be permitted to possess, use and enjoy the Project and appurtenances so as to carry out its obligations under the Lease.

ARTICLE IX

DEFAULT AND REMEDIES

Section 901. Events of Default; Notice; Opportunity to Cure. If any of the following events occur, it is hereby defined to be and to constitute an "Event of Default":

- (a) Default in the due and punctual payment of the principal on any Bond, whether at the stated maturity or accelerated maturity thereof, or at the date fixed for redemption thereof;
- (b) Default in the due and punctual payment of the interest on any Bond, whether at the stated maturity or accelerated maturity thereof, or at the date fixed for redemption thereof;
- (c) Default as specified in **Section 12.1** of the Lease shall have occurred.

Anything herein to the contrary notwithstanding, no default specified above shall constitute an Event of Default until actual notice of such default by registered or certified mail shall be given to the Company by the City, the Trustee or the holders of 25% in aggregate principal amount of all Bonds Outstanding and the Company shall not have corrected said default or caused said default to be waived or corrected within 30 days after receiving written notice of the default; provided, however, if any such default (other than a default in the payment of any money) cannot be corrected within such 30-day period, it shall not constitute an Event of Default if corrective action is instituted by the Company within such period and diligently pursued until the default is corrected or waived, as the case may be.

Section 902. Acceleration of Maturity in Event of Default. If an Event of Default shall have occurred and be continuing, the Trustee may, and upon the written request of the holders of not less than 25% in aggregate principal amount of Bonds then Outstanding, shall, by notice in writing delivered to the City and the Company, declare the principal of all Bonds then Outstanding and the interest accrued thereon

immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable.

Section 903. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession. Subject to applicable law and regulation, if an Event of Default shall have occurred and be continuing, the City, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the City pertaining thereto, and including the rights and the position of the City under the Lease, and to hold, operate and manage the same, and from time to time make all needful repairs and improvements; the Trustee may lease the Project or any part thereof, in the name and for account of the City, and collect, receive and sequester the rents, revenues and receipts therefrom, and out of the same and any moneys received from any receiver of any part thereof pay, and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including (a) reasonable fees and expenses of the Trustee and its agents and counsel, (b) any taxes, assessments and other charges prior to the lien of this Indenture, (c) all expenses of such repairs and improvements, and (d) any amounts accrued and payable under the Economic Development Agreement. The Trustee shall apply the remainder of the moneys so received in accordance with the provisions of **Section 908** hereof. Whenever all that is due upon the Bonds shall have been paid and all defaults made good, the Trustee shall surrender possession of the Trust Estate to the City, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default. While in possession of such property, the Trustee shall render annually to the City and the Company a summarized statement of receipts and expenditures in connection therewith.

Section 904. Appointment of Receivers in Event of Default. If an Event of Default shall have occurred and be continuing, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Bondowners under this Indenture, the Trustee shall (subject to applicable law) be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate or any part thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 905. Exercise of Remedies by the Trustee.

(a) Upon the occurrence of an Event of Default, the Trustee may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Bonds then Outstanding, and to enforce and compel the performance of the duties and obligations of the City as herein set forth.

(b) If an Event of Default shall have occurred and be continuing, and if requested to do so by (1) the City (in the case of an Event of Default arising out of Section 12.1(c), (d) or (e) of the Lease), or (2) the holders of 25% in aggregate principal amount of Bonds then Outstanding and indemnified as provided in subsection (l) of **Section 1001** hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, shall deem most expedient and in the interests of the City or the Bondowners, as the case may be.

(c) Subject to applicable law, all rights of action under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without necessity of joining as plaintiffs or defendants any Bondowner, and any recovery of judgment shall, subject to the provisions of **Section 908** hereof, be for the equal benefit of all Bondowners.

Section 906. Limitation on Exercise of Remedies by Bondowners. No Bondowner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless (a) a default has occurred of which the Trustee has been notified as provided in subsection (h) of **Section 1001** or of which by said subsection the Trustee is deemed to have notice, (b) such default shall have become an Event of Default, (c) the holders of 25% in aggregate principal amount of Bonds then Outstanding shall have made written request to the Trustee, shall have offered it reasonable opportunity either to proceed and to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and shall have offered to the Trustee indemnity as provided in subsection (l) of **Section 1001**, and (d) the Trustee shall thereafter fail or refuse to exercise the powers herein granted or to institute such action, suit or proceeding in its own name; such notification, request and offer of indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder it being understood and intended that no one or more Bondowner shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the holders of all Bonds then Outstanding. Nothing in this Indenture contained shall, however, affect or impair the right of any Bondowner to payment of the principal of and interest on any Bond at and after the maturity thereof or the obligation of the City to pay the principal of and interest on each of the Bonds issued hereunder to the respective Bondowners at the time, place, from the source and in the manner herein and in the Bonds expressed.

Section 907. Right of Bondowners to Direct Proceedings.

(a) Anything in this Indenture to the contrary notwithstanding, the holders of a majority in aggregate principal amount of Bonds then Outstanding shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, including **Section 1001(l)** hereof.

(b) Notwithstanding any provision in this Indenture to the contrary, the Bondowners shall not have the right to control or direct any remedies hereunder in the Event of Default pursuant to **Section 12.1(c)**, (d) or (e) of the Lease.

Section 908. Application of Moneys in Event of Default.

(a) All moneys received by the Trustee pursuant to any right given or action taken under the provisions of this Article shall, after payment of any obligations outstanding under the Economic Development Agreement, of the cost and expenses of the proceedings resulting in the collection of such moneys and of the fees, expenses, liabilities and advances incurred or made by the Trustee (including any attorneys fees and expenses) or amounts to be paid pursuant to **Section 903** hereof, be deposited in the Bond Fund and all moneys so deposited in the Bond Fund shall be applied as follows:

(1) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

FIRST -- To the payment to the Persons entitled thereto of all installments of interest, if any, then due and payable on the Bonds, in the order in which such installments of interest became due and payable, and, if the amount available shall not be sufficient to pay in full any particular

installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or privilege;

SECOND -- To the payment to the Persons entitled thereof of the unpaid principal of any of the Bonds which shall have become due and payable (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment, ratably, according to the amount of principal due on such date, to the Persons entitled thereto without any discrimination or privilege.

(2) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest, if any, then due and unpaid on all of the Bonds, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the Person entitled thereto, without any discrimination or privilege.

(3) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of **Section 910**, then, subject to the provisions of subsection (2) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (1) of this Section.

(b) Whenever moneys are to be applied pursuant to the provisions of this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future. Whenever the Trustee shall apply such moneys, it shall fix the date (which shall be an interest payment date unless it shall deem another date more suitable) upon which such application is to be made and upon such date interest on the amounts of principal to be paid on such dates shall cease to accrue.

(c) Whenever all of the Bonds and interest thereon, if any, have been paid under the provisions of this Section, and all fees, expenses and charges of the City and the Trustee and any other amounts required to be paid under this Indenture, the Deed of Trust, the Economic Development Agreement and the Lease have been paid (including any amounts payable under the Economic Development Agreement), any balance remaining in the Bond Fund shall be paid to the Company as provided in **Section 606** hereof.

Section 909. Remedies Cumulative. No remedy by the terms of this Indenture conferred upon or reserved to the Trustee, the City or to the Bondowners is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee, the City or to the Bondowners hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein; every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or shall have been determined adversely, then and in every such case the City, the Company, the Trustee and the Bondowners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 910. Waivers of Events of Default. The Trustee may in its discretion waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal of and

interest, if any, on Bonds, and shall do so upon the written request of the holders of more than 50% in aggregate principal amount of all the Bonds then Outstanding, provided, however, that (1) there shall not be waived without the consent of the City an Event of Default hereunder as a result of an event of default under Section 12.1(c), (d) or (e) of the Lease, and (2) there shall not be waived without the consent of the holders of all the Bonds Outstanding (a) any Event of Default in the payment of the principal of any Outstanding Bonds when due (whether at the date of maturity or redemption specified therein), or (b) any Event of Default in the payment when due of the interest on any such Bonds, unless prior to such waiver or rescission, all arrears of interest, or all arrears of payments of principal when due, as the case may be, and all reasonable expenses of the Trustee and the City (including attorneys fees and expenses), in connection with such default, shall have been paid or provided for. In case of any such waiver or rescission, or in case any proceeding taken by the Trustee on account of any such default shall have been discontinued or abandoned or determined adversely, then and in every such case the City, the Company, the Trustee and the Bondowners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

ARTICLE X

THE TRUSTEE

Section 1001. Acceptance of the Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default shall have occurred and be continuing, subject to **Section 1001(i)** below, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent person would exercise or use under the circumstances in the conduct of its own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, attorneys or receivers and shall not be responsible for any misconduct or negligence on the part of any agent, attorney or receiver appointed or chosen by it with due care, and the Trustee shall be entitled to act upon the opinion or advice of counsel, who may be counsel to the City or to the Company, concerning all matters of trust hereof and the duties hereunder, and may in all cases pay such reasonable compensation to all such agents, attorneys and receivers as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith in reliance upon such opinion or advice of counsel addressed to the City and the Trustee.

(c) The Trustee shall not be responsible for any recital herein or in the Bonds (except with respect to the Certificate of Authentication of the Trustee endorsed on the Bonds), or except as provided in the Lease and particularly Section 10.8 thereof, for the recording or rerecording, filing or refiling of this Indenture or any security agreement in connection therewith (excluding the continuation of Uniform Commercial Code financing statements), or for insuring the Project or collecting any insurance moneys, or for the validity of the execution by the City of this Indenture or of any Supplemental Indentures or instruments of further assurance, or for the sufficiency of the security of the Bonds. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article VII** hereof.

(d) The Trustee shall not be accountable for the use of any Bonds authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the owner or pledgee of Bonds with the same rights which it would have if it were not Trustee. The Trustee shall not be accountable for the use or application by the City or the Company of the proceeds of any of the Bonds or of any money paid to or upon the order of the City or Company under any provision of this Indenture.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture believed by it to be genuine and correct and to have been signed, presented or sent by the proper Person or Persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of any Person who, at the time of making such request or giving such authority or consent is a Bondowner, shall be conclusive and binding upon all future holders of the same Bond and upon Bonds issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee shall be entitled to rely upon a certificate signed by the Authorized City Representative or an Authorized Company Representative as sufficient evidence of the facts therein contained, and prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its bad faith, negligence or willful misconduct.

(h) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder except failure by the City to cause to be made any of the payments to the Trustee required to be made in **Article VI** hereof, unless the Trustee shall be specifically notified in writing of such default by the City or by the holders of at least 25% in aggregate principal amount of all Bonds then Outstanding.

(i) Upon reasonable request and subject to the Company's reasonable and standard security procedures, the Trustee and its duly authorized agents and representatives shall have the right, but shall not be required, to inspect any and all of the Project, and all books, papers and records of the City and the Company pertaining to the Project and the Bonds, and to copy such non-confidential memoranda related thereto as may be desired. The Trustee shall treat all proprietary information of the Company as confidential.

(j) The Trustee shall not be required to give any bond or surety in respect to the execution of its trusts and powers hereunder or otherwise in respect of the Project.

(k) The Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions,

appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee deemed desirable for the purpose of establishing the right of the City to the authentication of any Bonds, the withdrawal of any cash, or the taking of any other action by the Trustee.

(l) Notwithstanding anything in the Indenture or the Lease to the contrary, before taking any action under this Indenture other than payments from moneys on deposit in the Construction Fund or the Bond Fund, as provided herein, the Trustee may require that satisfactory indemnity be furnished to it for the reimbursement of all costs and expenses to which it may be put and to protect it against all liability which it may incur in or by reason of such action, except liability which is adjudicated to have resulted from its bad faith, negligence or willful misconduct by reason of any action so taken.

(m) Notwithstanding any other provision of this Indenture to the contrary, any provision relating to the conduct of, intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee, shall be interpreted to include any action of the Trustee, whether it is deemed to be in its capacity as Trustee, bond registrar or Paying Agent.

Section 1002. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees for its ordinary services rendered hereunder and all advances and external counsel fees and other ordinary expenses reasonably made or incurred by the Trustee in connection with such ordinary services and, in the event that it should become necessary that the Trustee perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the bad faith, neglect or willful misconduct of the Trustee, it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees and charges of the Trustee as Paying Agent for the Bonds. Pursuant to the provisions of **Section 5.2** of the Lease, the Company has agreed to pay to the Trustee all reasonable fees, charges and expenses of the Trustee under this Indenture. The Trustee agrees that the City shall have no liability for any reasonable fees, charges and expenses of the Trustee, and the Trustee agrees to look only to the Company for the payment of all reasonable fees, charges and expenses of the Trustee and any Paying Agent as provided in the Lease. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment prior to payment on account of principal of or interest on any Bond, upon all moneys in its possession under any provisions hereof for the foregoing reasonable advances, fees, costs and expenses incurred.

Section 1003. Notice to Bondowners if Default Occurs. If a default occurs of which the Trustee is by subsection (h) of **Section 1001** hereof required to take notice or if notice of default be given as in said subsection (h) provided, then the Trustee shall give written notice thereof to the last known holders of all Bonds then Outstanding as shown by the bond registration books required by **Section 206** to be kept at the corporate trust office of the Trustee.

Section 1004. Intervention by the Trustee. In any judicial proceeding to which the City is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of the Bondowners, the Trustee may intervene on behalf of Bondowners and, subject to the provisions of **Section 1001(l)** hereof, shall do so if requested in writing by the holders of at least 25% of the aggregate principal amount of Bonds then Outstanding.

Section 1005. Successor Trustee Upon Merger, Consolidation or Sale. With the prior written consent of the Company, any corporation or association into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which it may sell or transfer its corporate trust business

and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

Section 1006. Resignation of Trustee. The Trustee and any successor Trustee may at any time resign from the trusts hereby created by giving 90 days' written notice to the City, the Company and, unless the Company is the sole Bondholder, the Bondowners, and such resignation shall take effect at the end of such 90 days, or upon the earlier appointment of a successor Trustee by the Bondowners or by the City.

Section 1007. Removal of Trustee. The Trustee may be removed at any time, with or without cause, by an instrument or concurrent instruments in writing (a) delivered to the Trustee, the City and the Company and signed by the holders of a majority in aggregate principal amount of Bonds then Outstanding, or (b) so long as no Event of Default under this Indenture or the Lease shall have occurred and be continuing, delivered to the Trustee, the City and the Bondowners and signed by the Company.

Section 1008. Appointment of Successor Trustee. In case the Trustee hereunder shall resign or be removed, or shall otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee (a) reasonably acceptable to the City may be appointed by the Company (so long as no Event of Default shall have occurred and be continuing), or (b) reasonably acceptable to the City and the Company may be appointed by the holders of a majority in aggregate principal amount of Bonds then Outstanding, by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy, the City, by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, may appoint a temporary Trustee to fill such vacancy until a successor Trustee shall be appointed in the manner above provided. Any such temporary Trustee so appointed by the City shall immediately and without further acts be superseded by the successor Trustee so appointed as provided above. Every such Trustee appointed pursuant to the provisions of this Section shall be a trust company or bank in good standing and qualified to accept such trust having, or whose obligations are guaranteed by a financial institution having, a reported capital, surplus and undivided profits of not less than \$50,000,000. If no successor Trustee has been so appointed and accepted appointment in the manner herein provided, the Trustee or any Owner may petition any court of competent jurisdiction for the appointment of a successor Trustee, until a successor shall have been appointed as above provided.

Section 1009. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the City and the Company an instrument in writing accepting such appointment hereunder, and thereupon such successor shall, without any further act, deed or conveyance, become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor, and the duties and obligations of such predecessor hereunder shall thereafter cease and terminate; but such predecessor shall, nevertheless, on the written request of the City, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the City be required by any predecessor or successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

Section 1010. Right of Trustee to Pay Taxes and Other Charges. In case any tax, assessment or governmental or other charge upon, or insurance premium with respect to, any part of the Project is not paid as required herein or in the Lease, the Trustee may pay such tax, assessment or governmental charge or

insurance premium, without prejudice, however, to any rights of the Trustee or the Bondowners hereunder arising in consequence of such failure; any amount at any time so paid under this Section, with interest thereon from the date of payment at the rate of 10% per annum, shall become an additional obligation secured by this Indenture, and the same shall be given a preference in payment over any payment of principal of or interest on the Bonds, and shall be paid out of the proceeds of rents, revenues and receipts collected from the Project, if not otherwise caused to be paid; but the Trustee shall be under no obligation to make any such payment unless it shall have been requested to do so by the holders of at least 25% of the aggregate principal amount of Bonds then Outstanding and shall have been provided adequate funds for the purpose of such payment.

Section 1011. Trust Estate May be Vested in Co-trustee.

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including the State of Missouri) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture or the Lease, and in particular in case of the enforcement of either on default or in case the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an additional individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee.

(b) In the event that the Trustee appoints an additional individual or institution as a co-trustee or separate trustee (which appointment shall be subject to the approval of the Company), each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the City be required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting in and confirming to such co-trustee such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the City.

(d) In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

Section 1012. Accounting. The Trustee shall render an annual accounting for the period ending December 31 of each year to the City, the Company and to any Bondowner requesting the same and, upon the request of the Company or the Bondowner, a monthly accounting to the Company and the Bondowner, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds or accounts created by this Indenture as of the beginning and close of such accounting period.

Section 1013. Performance of Duties Under the Lease. The Trustee hereby accepts and agrees to perform all duties and obligations assigned to it under the Lease.

ARTICLE XI

SUPPLEMENTAL INDENTURES

Section 1101. Supplemental Indentures Not Requiring Consent of Bondowners. The City and the Trustee may from time to time, without the consent of or notice to any of the Bondowners, enter into such Supplemental Indenture or Supplemental Indentures as shall not be inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

- (a) To cure any ambiguity or formal defect or omission in this Indenture, or to make any other change not materially adverse to the security for the Bondowners;
- (b) To grant to or confer upon the Trustee for the benefit of the Bondowners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Bondowners or the Trustee or either of them;
- (c) To more precisely identify the Project or the Project Site or to add additional property thereto;
- (d) To conform the Indenture to amendments to the Lease made by the City and the Company;
- (e) To subject to this Indenture additional revenues, properties or collateral; or
- (f) To issue Additional Bonds as provided in **Section 209** hereof.

Section 1102. Supplemental Indentures Requiring Consent of Bondowners.

(a) Exclusive of Supplemental Indentures covered by **Section 1101** hereof and subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding, to consent to and approve the execution by the City and the Trustee of such other Supplemental Indenture or Supplemental Indentures as shall be deemed necessary and desirable by the City for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture; provided, however, that nothing in this Section contained shall permit or be construed as permitting (1) an extension of the maturity or a shortening of the redemption date of the principal of or the interest, if any, on any Bond issued hereunder, or (2) a reduction in the principal amount of any Bond or the rate of interest thereon, if any, or (3) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (4) a reduction in the aggregate principal amount of Bonds the Bondowners of which are required for consent to any such Supplemental Indenture.

(b) If at the time the City shall request the Trustee to enter into any such Supplemental Indenture for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture to be mailed to each Bondowner as shown on the bond registration books required by **Section 206** hereof. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture and shall state that copies thereof are on file at the principal corporate trust office of the Trustee for inspection by all Bondowners. If within 60 days or such longer period as may be prescribed by the City following the mailing and final publication of such notice, the holders of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Indenture shall have consented to and approved the execution thereof as herein provided, no Owner of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation

thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1103. Company's Consent to Supplemental Indentures. Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article which affects any rights of the Company shall not become effective unless and until the Company shall have consented in writing to the execution and delivery of such Supplemental Indenture, provided that receipt by the Trustee of a Supplemental Lease executed by the Company in connection with the issuance of Additional Bonds under **Section 209** hereof shall be deemed to be the consent of the Company to the execution of a Supplemental Indenture pursuant to **Section 209** hereof, respectively. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such Supplemental Indenture (other than a Supplemental Indenture proposed to be executed and delivered pursuant to **Section 209** hereof) together with a copy of the proposed Supplemental Indenture to be mailed to the Company at least 15 days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

Section 1104. Opinion of Counsel. In executing, or accepting the additional trusts created by, any Supplemental Indenture permitted by this Article or the modification thereby of the trusts created by this Indenture, the Trustee and the City may request, and, shall be fully protected in relying upon, an opinion of counsel addressed and delivered to the Trustee and the City stating that the execution of such Supplemental Indenture is permitted by and in compliance with this Indenture and will, upon the execution and delivery thereof, be a valid and binding obligation of the City. The Trustee may, but shall not be obligated to, enter into any such Supplemental Indenture which affects the Trustee's rights, duties or immunities under this Indenture or otherwise.

ARTICLE XII

SUPPLEMENTAL LEASES

Section 1201. Supplemental Leases Not Requiring Consent of Bondowners. The City and the Trustee shall, without the consent of or notice to the Bondowners, consent to the execution of any Supplemental Lease or Supplemental Leases by the City and the Company as may be required (a) by the provisions of the Lease and this Indenture, (b) for the purpose of curing any ambiguity or formal defect or omission in the Lease, (c) so as to more precisely identify the Project or add additional property thereto, (d) in connection with the issuance of Additional Bonds under **Section 209** hereof, or (e) in connection with any other change therein which, in the judgment of the Trustee, does not materially and adversely affect the Trustee or security for the Bondowners.

Section 1202. Supplemental Leases Requiring Consent of Bondowners. Except for Supplemental Leases as provided for in **Section 1201** hereof, neither the City nor the Trustee shall consent to the execution of any Supplemental Lease or Supplemental Leases by the City or the Company without the mailing of notice and the obtaining of the written approval or consent of the holders of not less than a majority in aggregate principal amount of the Bonds at the time Outstanding given and obtained as provided in **Section 1102** hereof. If at any time the City and the Company shall request the consent of the Trustee to any such proposed Supplemental Lease, the Trustee shall cause notice of such proposed Supplemental Lease to be mailed in the same manner as provided in **Section 1102** hereof with respect to Supplemental Indentures. Such notice shall briefly set forth the nature of such proposed Supplemental Lease and shall state that copies of the same are on file in the principal corporate trust office of the Trustee for inspection by all Bondowners. If within 60 days or such longer period as may be prescribed by the City following the mailing of such notice, the holders of not less than 50% in aggregate principal amount of the Bonds Outstanding at the time of the execution of any such Supplemental Lease shall have consented to and approved the execution thereof as herein provided, no Owner shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the

propriety of the execution thereof, or to enjoin or restrain the Trustee or the City from executing the same or from taking any action pursuant to the provisions thereof.

Section 1203. Opinion of Counsel. In executing or consenting to any Supplemental Lease permitted by this Article, the City and the Trustee may request, and shall be fully protected in relying upon, an opinion of counsel addressed to the Trustee and the City stating that the executing of such Supplemental Lease is authorized or permitted by the Lease and applicable law and will upon the execution and delivery thereof be valid and binding obligations of the parties thereof.

ARTICLE XIII

SATISFACTION AND DISCHARGE OF INDENTURE

Section 1301. Satisfaction and Discharge of this Indenture.

(a) When the principal of and interest on all the Bonds shall have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 1302** hereof, and provision shall also be made for paying all other sums payable hereunder, under the Lease and the Economic Development Agreement (including the reasonable fees and expenses of the Trustee, the City and Paying Agent) to the date of retirement of the Bonds, then the right, title and interest of the Trustee in respect hereof shall thereupon cease, determine and be void, and thereupon the Trustee shall cancel, discharge and release this Indenture and shall, upon the written request of the City or the Company, execute, acknowledge and deliver to the City such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the City any property at the time subject to this Indenture which may then be in its possession, except amounts in the Bond Fund required to be paid to the Company under **Section 606** hereof and except funds or securities in which such funds are invested held by the Trustee for the payment of the principal of and interest on the Bonds.

(b) The City is hereby authorized to accept a certificate by the Trustee that the whole amount of the principal and interest, if any, so due and payable upon all of the Bonds then Outstanding has been paid or such payment provided for in accordance with **Section 1302** hereof as evidence of satisfaction of this Indenture, and upon receipt thereof shall cancel and erase the inscription of this Indenture from its records.

Section 1302. Bonds Deemed to be Paid.

(a) Bonds shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest thereon to the due date thereof (whether such due date be by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) shall have been made or caused to be made in accordance with the terms thereof, or (2) shall have been provided for by depositing with the Trustee or other commercial bank or trust company having full trust powers and authorized to accept trusts in the State of Missouri in trust and irrevocably set aside exclusively for such payment (i) moneys sufficient to make such payment or (ii) Government Securities maturing as to principal and interest in such amount and at such times as will insure the availability of sufficient moneys to make such payment, or (3) have been provided for by surrendering the Bonds to the Trustee for cancellation. At such time as a Bond shall be deemed to be paid hereunder, as aforesaid, it shall no longer be secured by or entitled to the benefits of this Indenture, except for the purposes of such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Bonds which by their terms may be redeemed prior to the stated maturities thereof, no deposit under clause (2) of the immediately preceding paragraph

shall be deemed a payment of such Bonds as aforesaid until, as to all such Bonds which are to be redeemed prior to their respective stated maturities, proper notice of such redemption shall have been given in accordance with **Article III** of this Indenture or irrevocable instructions shall have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Bonds shall be applied to and used solely for the payment of the particular Bonds, with respect to which such moneys and Government Securities have been so set aside in trust.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

Section 1401. Consents and Other Instruments by Bondowners.

(a) Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Bondowners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Bondowners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Bonds (other than the assignment of ownership of a Bond), if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(1) The fact and date of the execution by any person of any such instrument may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgements within such jurisdiction that the person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(2) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the City maintained by the Trustee pursuant to **Section 206** hereof.

Section 1402. Limitation of Rights Under this Indenture. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture or the Bonds is intended or shall be construed to give any Person other than the parties hereto, and the Bondowners, if any, any right, remedy or claim under or in respect to this Indenture, this Indenture and all of the covenants, conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of the parties hereto and the Bondowners, as herein provided.

Section 1403. Notices. It shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given or filed with the City, the Trustee, the Company or Bondowners if the same shall be duly mailed by registered or certified mail addressed:

(a) To the City: City of Peculiar, Missouri
600 Schug Avenue
Peculiar, MO 64078
ATTN: City Administrator

(b) To the Trustee: Commerce Bank, N.A.
922 Walnut, 6th Floor

Kansas City, Missouri 64106
ATTN: Corporate Trust Department

(c) To the Company:

Aquila, Inc.
10700 E. 350 Highway
Raytown, MO 64138
ATTN: Beth Armstrong

With a copy to:

Aquila, Inc.
20 West Ninth Street
Kansas City, MO 64105
ATTN: General Counsel

(d) To the Bondowners if the same shall be duly mailed by first class, registered or certified mail addressed to each Bondowner at the time Outstanding as shown by the bond registration books required by **Section 206** hereof to be kept at the principal corporate trust office of the Trustee.

All notices given by certified or registered mail as aforesaid shall be deemed fully given as of the date they are so mailed. All notices given by overnight delivery or other delivery service shall be deemed fully given as of the date when receipted. All notices given by facsimile shall be deemed fully given as of the date when receipted. A duplicate copy of each notice, certificate or other communication given hereunder by either the City or the Trustee to the other shall also be given to the Company. The City, the Company and the Trustee may from time to time designate, by notice given hereunder to the others of such parties, such other address to which subsequent notices, certificates or other communications shall be sent.

Section 1404. Severability. If any provision of this Indenture shall be held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

Section 1405. Execution in Counterparts. This Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1406. Governing Law. This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

IN WITNESS WHEREOF, City of Peculiar, Missouri, has caused this Indenture to be signed in its name and behalf by its Mayor and attested by its City Clerk, and to evidence its acceptance of the trusts hereby created, Commerce Bank, N.A. has caused this Indenture to be signed in its name and behalf by its duly authorized President or Vice-President or Trust Officer and attested by its Secretary or Assistant Secretary, all as of the date first above written.

CITY OF PECULIAR, MISSOURI

By _____
Mayor

ATTEST:

By _____
City Clerk

ACKNOWLEDGEMENT

STATE OF MISSOURI)
) SS.
COUNTY OF _____)

On this 30th day of December, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, and _____, who acknowledged themselves to be the Mayor and City Clerk of CITY OF PECULIAR, MISSOURI, a fourth class city organized and existing under the laws of the State of Missouri, and that they, as such Mayor and City Clerk are authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the City by themselves as Mayor and City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My commission expires:

Aquila, Inc.
Trust Indenture

COMMERCE BANK, N.A.,
as Trustee

By _____
Name:
Title:

ATTEST:

By _____
Name:
Title:

ACKNOWLEDGEMENT

STATE OF MISSOURI)
) SS.
COUNTY OF _____)

On this _____ day of _____, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, who acknowledged himself to be a Vice President of COMMERCE BANK, N.A., Kansas City, Missouri, a national banking association duly organized and existing under the laws of the United States of America, and that he as such Vice President being authorized so to do executed the foregoing instrument for the purposes therein contained by signing the name of the association by himself as Vice President.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year last above written.

Notary Public

My commission expires:

Aquila, Inc.
Trust Indenture

EXHIBIT A

PROJECT

The Project consists of electricity generation, transmission and distribution facilities described below.

A. South Harper Peaking Facility

The South Harper electric "peaking" facility will comprise the three gas-fired turbine units and 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 power generation 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.

B. Peculiar 345 kV Substation

The Peculiar 345/161 kV transmission 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.

In connection with the ownership of the Project, the City will own (a) the real estate comprising the Project Site and all buildings, structures, improvements and fixtures attached thereto, (b) all additions, modifications and improvements made to the real property described in clause (a) above or otherwise resulting from, or acquired in connection with, the constructing, equipping or improving of the Project, to the extent financed by Bond proceeds, (c) the Project Equipment, and (d) all replacements and substitutions related to the Project Equipment and all additional personal property acquired in connection with the constructing or equipping of the Project, to the extent financed by Bond proceeds.

EXHIBIT B

PROJECT EQUIPMENT

All machinery, equipment or other personal property acquired and installed (or acquired for installation) on, in or at the Project Site in connection with the Project, including:

- a. the equipment described in the Bill of Sale dated as of December 30, 2004, between the City and the Company, including three Siemens Westinghouse Model 501D5A Econopac Combustion Turbine/Generators systems including the following major equipment:
 1. Combustion Turbine Package (Mod 501D5A)
Unit #1 Serial Number 37A7740
Unit #2 Serial Number 37A7741
Unit #3 Serial Number 37A7742
 2. Generator Package (Mod TLRI 100/30-36)
Unit #1 Serial Number 6659
Unit #2 Serial Number 6667
Unit #3 Serial Number 6739
 3. Per Econopac Unit –
 - A. Walk-in Turbine Enclosure
 - B. Mechanical Package
 - C. Electrical/Control Package
 - D. Fuel Gas System
 - E. Starting System
 - F. Pre-engineered Pipe Rack & Interconnecting Piping
 - G. Turbine and Generator Accessory Equipment
 - H. Power Electrics
 - I. Electrical Interconnecting Equipment
 - J. Tools and Maintenance Equipment
 - K. Other Contract Services; and
- b. transformers, breakers and associated transmission equipment required to construct a 161/69 kV transmission substation adjacent to the electric "peaking" power plant and a 345/161 kV transmission substation located on the real estate described under the "North Peculiar Property" heading on Exhibit A.

EXHIBIT C

PROJECT SITE

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 Peculiar 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°35'49" EAST ALONG THE NORTH LINE THEREOF, 400.00 FEET; THENCE SOUTH 17°21'24" EAST, 1189.30 FEET; THENCE NORTH 89°43'10" EAST, 570.00 FEET; THENCE SOUTH 0°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°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°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.

In addition to the real estate described under the "South Harper Road" and "North Peculiar Property" headings above, the Project Site consists of all buildings, structures, fixtures, and improvements located on (or attached to) the aforementioned real estate.

EXHIBIT D

FORM OF REPRESENTATION LETTER

City of Peculiar, Missouri
600 Schug Avenue
Peculiar, MO 64078
ATTN: City Administrator

Commerce Bank, N.A.
922 Walnut, 6th Floor
Kansas City, Missouri 64106
ATTN: Corporate Trust Department

Re: \$140,000,000 Maximum Principal Amount of Taxable Industrial Revenue Bonds (Aquila Project), Series 2004 of City of Peculiar, Missouri

Ladies and Gentlemen:

In connection with the purchase of the above-referenced Bonds (the "Bonds"), the undersigned purchaser of the Bonds hereby represents, warrants and agrees as follows:

1. The undersigned purchaser fully understands that (a) the Bonds have been issued under and pursuant to a Trust Indenture dated as of December 30, 2004 (the "Indenture," and terms capitalized but not otherwise defined herein have the meanings ascribed thereto in the Indenture), between City of Peculiar, Missouri (the "City") and Commerce Bank, N.A., as trustee (the "Trustee"), and (b) the Bonds are payable solely out of certain rents, revenues and receipts to be derived from the leasing or sale of the Project to Aquila, Inc. (the "Company"), under a Lease Agreement dated as of December 30, 2004 (the "Lease"), between the City and the Company, with certain of such rents, revenues and receipts being pledged and assigned by the City to the Trustee under the Indenture to secure the payment of the principal of and interest on the Bonds.

2. The undersigned purchaser understands that the Bonds are transferable only in the manner provided for in the Indenture and discussed below and warrants that it is acquiring the Bonds for its own account with the intent of holding the Bonds as an investment, and the acquisition of the Bonds is not made with a view toward their distribution or for the purpose of offering, selling or otherwise participating in a distribution of the Bonds.

3. The undersigned purchaser agrees not to attempt to offer, sell, hypothecate or otherwise distribute the Bonds to others unless authorized by the terms of the Indenture and upon receipt of any required opinion of counsel acceptable to the City, the Company and the purchaser that all registration and disclosure requirements of the Securities and Exchange Commission and all other appropriate federal and Missouri securities laws and the securities law of any other applicable state are complied with.

4. The Company has (a) furnished to the undersigned purchaser such information about itself as the undersigned deems necessary in order for it to make an informed investment decision with

respect to the purchase of the Bonds, (b) made available to the undersigned, during the course of this transaction, ample opportunity to ask questions of, and to receive answers from, appropriate officers of the City and the terms and conditions of the offering of the Bonds, and (c) provided to the undersigned all additional information which it has requested.

5. The undersigned purchaser is now, and was when it agreed to purchase the Bonds, familiar with the operations of the Company and fully aware of terms and risks of the Bond. The undersigned believes that the Bonds which it is acquiring is a security of the kind that it wishes to purchase and hold for investment and that the nature and amount thereof are consistent with its investment program.

6. The undersigned is fully aware of and satisfied with (i) the current status of the title to the Project and any issues related thereto and (ii) the terms, amounts and providers of the insurance maintained pursuant to **Article VII** of the Lease, and the undersigned is purchasing the Bonds with full knowledge of such matters.

7. The undersigned understands and agrees that the interest on the Bonds is subject to federal and state income taxation.

Dated: _____

[PURCHASER OF BONDS]

By: _____
Name: _____
Title: _____

DEED OF TRUST AND SECURITY AGREEMENT

BY

**CITY OF PECULIAR, MISSOURI,
as Grantor**

to

**WILLIAM E. EKEY
as Grantee**

for the benefit of

**COMMERCE BANK, N.A.,
as Trustee**

DEED OF TRUST

THIS DEED OF TRUST, made and entered into as of December 30, 2004 by and among **CITY OF PECULIAR, MISSOURI**, a fourth class city organized under the laws of the State of Missouri, having its principal office located at 600 Schug Avenue, Peculiar, Missouri 64078 (the "City"), **WILLIAM E. EKEY**, an individual citizen of the State of Missouri, who resides in Jackson County, Missouri, and whose mailing address is 922 Walnut, 10th Floor, Kansas City, MO 64106, as Grantee (together with his successors in trust collectively referred to as the "Mortgage Trustee"), for the benefit of **COMMERCE BANK, N.A.**, a national banking association duly organized and existing under the laws of the United States of America, having its principal office located at 922 Walnut, 10th Floor, Kansas City, Missouri, and its successors and assigns, as trustee under a Trust Indenture dated as of the date hereof (the "Trustee").

WITNESSETH:

WHEREAS, the City is authorized under Sections 100.010 through 100.200 of the Revised Statutes of Missouri, as amended and Article VI Section 27(b) of the Missouri Constitution (the "Act"), to issue revenue bonds to provide funds for the carrying out of a project under the Act and to sell, lease or mortgage to private persons, partnerships or corporations the facilities purchased, constructed, extended or improved by the City for manufacturing, commercial, warehousing and industrial development purposes pursuant to the Act; and

WHEREAS, pursuant to the Act, the governing body of the City adopted an Ordinance on December 28, 2004, authorizing the City to issue its Taxable Industrial Revenue Bonds (Aquila Project) Series 2004 (the "Bonds") in a principal amount not to exceed \$140,000,000, for the purpose of purchasing, constructing, extending and improving a project, described on **Exhibit A** hereto (the "Project") including land, buildings, structures, improvements, fixtures, machinery and equipment as hereinafter more fully described, and authorizing the City to lease the Project to Aquila, Inc., a Delaware corporation (the "Company");

WHEREAS, the City is authorized to execute and deliver a Trust Indenture, as amended from time to time (the "Indenture") for the purpose of issuing and securing the Bonds, and to enter into a Lease Agreement, as amended from time to time (the "Lease"), with the Company under which the City as Lessor, will purchase, construct, extend and improve the Project and will lease the Project to the Company, as Lessee, in consideration of rentals which will be sufficient to pay the principal of and interest on the Bonds;

NOW, THEREFORE, in consideration of the purchase of the Bonds by the Company, the trust hereinafter created and the sum of ONE DOLLAR (\$1.00) to it paid by the Mortgage Trustee, and of other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, and as security for the prompt payment when due of the principal and interest on the Bonds, whether at the stated maturity thereof, or upon maturity by acceleration, and all other amounts payable by the City under the Indenture, the Bonds, the Economic Development Agreement dated as of December 30, 2004 between the City and the Company, and this Deed of Trust, according to their respective terms and conditions, and for the performance by the City of the agreements, conditions, covenants, provisions and stipulations contained herein and therein, the City does hereby **GRANT, BARGAIN AND SELL, CONVEY AND CONFIRM** unto the Mortgage Trustee, and unto his successors and assigns forever, in trust, and assigns and grants to the Trustee for the benefit of the legal owner from time to time of the Bonds a security interest in, all of the hereinafter described properties whether now owned or hereafter acquired situated in City of Peculiar, Missouri (the "Property");

1. The City's right, title, and interest in and to the real estate described in Schedule 1 hereto (the "Land").

2. All right, title and interest of the City in and to all buildings, improvements and fixtures, and all other property constituting real property or real estate under the laws of the State of Missouri now located, or hereafter erected, upon the Land, including without limitation the Project, and all right, title and interest of the City, in and to any and all strips and gores of land, in and to all land upon which any such buildings or improvements may now or hereafter encroach, and in, to and under the land within the streets, roads and alleys adjoining all such real property, and in and to all and singular the tenements, hereditaments, appurtenances, privileges, easements, franchises, rights, appendages and immunities whatsoever belonging to or in any wise appertaining to all such real property.

3. All right, title and interest of the City (now owned or hereafter acquired) in and to the equipment, and other articles of property (real, personal or mixed) at any time now or hereafter installed in, attached to or situated in or upon the Land or other real estate described above or the buildings and improvements to be erected thereon, or the buildings and improvements, plant, business or dwelling situated thereon, whether or not the said property is or shall be affixed thereto, including, without limiting the generality of the foregoing, all during the course of, or in connection with, any construction of any buildings and improvements related to the Project.

4. All leases or subleases of the Property, or any part or portion thereof, now or hereafter entered into or presently in existence and all right, title and interest of the City thereunder, including, without limitation, the Lease, as the same may be amended from time to time, and including cash and securities deposited under said leases or subleases.

5. The City's right, title, and interest in and to all rents from, all issues, uses, profits, proceeds (including insurance proceeds) and condemnation awards, and products of, all replacements and substitutions for, and other rights and interests now or thereafter belonging to, any of the foregoing.

6. All right, title and interest of the City under any and all construction and architectural or design contracts, and all right, title and interest of the City to surveys, plans and specifications and information, and any and all other items to be used in connection with the construction of the Project.

7. Any and all proceeds of any and all of the foregoing Property.

TO HAVE AND TO HOLD THE SAME, with all appurtenances thereto, unto the Mortgage Trustee, and unto his successor or successors and assigns forever in trust, however, for the purpose of securing the City's payments and performance under the Indenture and the Bonds.

AND TO FURTHER SECURE its payments and performance under the Indenture and the Bonds, the City has covenanted and agreed and does hereby covenant and agree, herein and in the Indenture and the Bonds, as follows:

1. The security hereof shall not affect or be affected by any other security taken for the indebtedness represented by the Indenture and the Bonds or any part thereof. The taking of additional security, or the extension or renewal of the indebtedness represented by the Indenture and the Bonds or any part thereof shall not release or impair the security hereof or improve the right of any junior lienholder; and this Deed of Trust as well as any instrument given to secure any renewal or extension hereof, shall be and remain a first and prior lien on all parts of the Project until the indebtedness represented by the Indenture and the Bonds is paid.

2. In the event of any failure or default in the performance of any of the covenants or agreements of the City contained in this Deed of Trust or in the event of the occurrence of an "Event of Default" under the Indenture, the Bonds or the Lease, the Trustee, its successors or assigns, may, without notice, subject to the rights of the City and the Company to cure such default, if any, declare the whole of the unpaid debt due thereunder, or any part thereof, to be immediately due and payable.

3. Notwithstanding any provision herein to the contrary, this Deed of Trust is nonrecourse against the City except to the extent of the Property.

4. This Deed of Trust secures future advances and future obligations within the meaning of §443.055, RSMo., and this Deed of Trust shall be governed by said §443.055. The "Face Amount", as defined in §443.055, is \$140,000,000. The total amount of obligations that may be secured by this Deed of Trust may decrease or increase from time to time, but the total principal amount of the obligations secured at any given time may not exceed the Face Amount as stated above, except as to advances made pursuant to subsection 3 of §443.055 (dealing with future advances and/or future obligations made or incurred for the reasonable protection of the beneficiary's lien and security interest under this Deed of Trust). The priority of any lien hereunder securing such future advances and future obligations shall date from the time this Deed of Trust is recorded in the applicable real property records, all in accordance with §443.055. The City, for itself and its successors and assigns as owner of the real property encumbered by this Deed of Trust (not including the Mortgage Trustee), to the maximum extent permissible under Missouri law, hereby waives any rights that it may otherwise have under Section §443.055, and hereby agrees not to terminate or give notice to terminate the operation of this security instrument as security for future advances or future obligations made or incurred after the date of such termination or notice. Any such termination or notice of termination shall, at the election of the Mortgage Trustee and subject to the notice and cure provisions provided for in the Indenture, constitute an Event of Default under the Indenture. In no event, however, shall any such termination affect the continued security or priority of this security instrument as security for the obligations outstanding on the date of such notice or termination.

PROVIDED, HOWEVER, if the amounts due under the Indenture and the Bonds be paid when due, and the agreements therein and herein contained be faithfully performed as aforesaid, these presents (including the lease hereinafter set forth) shall be void, and the Property shall be released at the cost of the Company. If the amounts due under the Lease and the Bonds, or any part thereof, be not so paid when due according to the terms of the Indenture, the Bonds or this Deed of Trust, or if default shall be made in the faithful performance of said covenants and agreements, or any of them, as therein and herein set forth, then the whole of the Bonds shall become due and be paid as hereinafter provided, and this Deed of Trust shall remain in force and effect and the Mortgage Trustee or his successors in trust as hereinafter provided shall at the request of the holder of the Bonds proceed to sell the property hereinbefore described at public vendue to the highest bidder for cash at a front door (to be designated by the Mortgage Trustee) of the building then appointed for holding foreclosure sales in Cass County, Missouri at Harrisonville, Missouri, first giving notice of such sale in the manner now prescribed by statute. The sale of the Property may be by one or more parcels and in such order as the Mortgage Trustee may determine. The Mortgage Trustee may postpone the sale of all or any parcel of the Property to any later time by public announcement at the time and place of any previously scheduled sale. Upon such sale, the Mortgage Trustee shall execute and deliver to the purchaser or purchasers thereof a deed of conveyance of the Property sold, and shall receive the proceeds of said sale or sales, and out of the same shall pay: **FIRST**, the reasonable costs and expenses of executing this trust including compensation to the Mortgage Trustee for his services; **SECOND**, to the Trustee or to the Mortgage Trustee or their respective successors or assigns, upon the delivery of the usual vouchers therefor, all moneys paid for insurance or taxes or judgments upon statutory liens, claims and interest thereon, together with interest thereon as hereinbefore provided; **THIRD**, to the City any amounts which may be owing to the City

under the Lease or the Economic Development Agreement, **FOURTH**, the principal due under the indebtedness represented by the Indenture and Bonds with all interest due thereunder to the time of such payment; provided, payments shall be credited first to interest and then to principal; **AND THE BALANCE** of such proceeds, if any, shall be paid to the City or its successors and assigns, or those lawfully entitled thereto.

The Trustee, its successors or assigns, at any time it or they may desire, may, by an instrument in writing executed and recorded according to law appoint a substitute trustee to act instead of the Mortgage Trustee named herein; and is further authorized so to appoint other substitute mortgage trustees successively, during the life of this Deed of Trust, and such mortgage trustees shall each and all succeed to the rights and power of the Mortgage Trustee named herein, and the City does hereby ratify and confirm any and all acts the said Mortgage Trustee, or his successors or successors in trust, may lawfully do by virtue hereof.

In case of any sale hereunder, it is agreed that the recitals in any deeds to the purchasers shall be accepted in any court as *prima facie* evidence of the truth of the matters therein stated, and it shall be presumed that all acts essential to the validity of the sale have been performed.

And the Mortgage Trustee hereby covenants faithfully to perform the trust herein created, and hereby lets the Property unto the City until a sale be had under the foregoing provisions upon the following terms and conditions to wit: The City, its successors and assigns, will pay rent therefor during said term at the rate of one cent (1¢) per month, payable monthly upon demand, and shall and will surrender peaceable possession of the Property, and every part thereof, sold under said provisions, to the Mortgage Trustee, its successors or assigns, or any purchaser or purchasers under such sale, within ten (10) days after the making of such sale, without notice or demand therefor.

To the extent any of the property covered by this Deed of Trust consists of property, rights or interests covered by the Missouri Uniform Commercial Code, this Deed of Trust shall constitute a security agreement and a present unconditional assignment of, and is intended to create a security interest in, such property in favor of the Trustee. During the continuance of any default hereunder, under the Bonds or the Indenture or any other document or instrument evidencing, securing or otherwise relating to the debt hereby secured, the Trustee shall have all the rights of and remedies with regard to such property available to a secured creditor under the Missouri Uniform Commercial Code. This Deed of Trust shall be self-operative with respect to such property, but the City agrees to execute and deliver on demand such security agreements, financing statements, continuation statements and other documents necessary to perfect a security interest in such property as the Trustee may request in order to impose or continue the lien and security interest hereof more specifically in any such property. In the event that the City fails to execute any of such instruments within ten (10) days after demand to do so, the City does hereby make, constitute and irrevocably appoint the Trustee as its attorney-in-fact and in its name, place and stead so to do.

This Deed of Trust shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the City has caused this Deed of Trust to be signed in its name and behalf by its Mayor and its corporate seal to be hereunto affixed and to be attested to by its City Clerk, all as of the day and year first above written.

CITY OF PECULIAR, MISSOURI

(SEAL)

By: _____
Mayor

ATTEST:

City Clerk

ACKNOWLEDGMENT

STATE OF MISSOURI)
) SS.
COUNTY OF _____)

On this _____ day of December, 2004, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the **CITY OF PECULIAR, MISSOURI**, a fourth class city, and that the seal affixed to the foregoing instrument is the seal of said City, and that said instrument was signed and sealed in behalf of said City by authority of its governing body, and said officer acknowledged said instrument to be the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Notary Public in and for said State
Commissioned in _____ County

(SEAL)

My commission expires: _____

Exhibit A

Project Description

The Project consists of electricity generation, transmission and distribution facilities described below.

A. South Harper Peaking Facility

The South Harper electric "peaking" facility will comprise the three gas-fired turbine units and 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 power generation 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.

B. Peculiar 345 kV Substation

The Peculiar 345/161 kV transmission 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.

In connection with the ownership of the Project, the City will own (a) the real estate comprising the Project Site and all buildings, structures, improvements and fixtures attached thereto, (b) all additions, modifications and improvements made to the real property described in clause (a) above or otherwise resulting from, or acquired in connection with, the constructing, equipping or improving of the Project, to the extent financed by Bond proceeds, (c) the Project Equipment, and (d) all replacements and substitutions related to the Project Equipment and all additional personal property acquired in connection with the constructing or equipping of the Project, to the extent financed by Bond proceeds.

SCHEDULE 1

Description of the Land

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 Peculiar Property

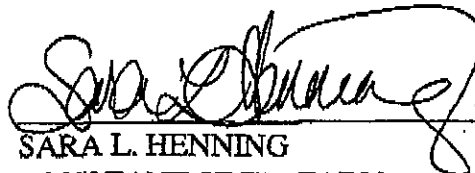
PART OF A TRACT OF LAND DESCRIBED IN BOOK 689, PAGE 71 IN THE OFFICE OF THE RECORDER OF DEEDS IN CASS COUNTY, MISSOURI, BEING PART OF THE NORTHWEST QUARTER OF SECTION 5, TOWNSHIP 45, RANGE 32, CASS COUNTY, MISSOURI, DESCRIBED AS BEGINNING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SECTION 5, AFORESAID, RUN THENCE SOUTH 89°35'49" EAST ALONG THE NORTH LINE THEREOF, 400.00 FEET; THENCE SOUTH 17°21'24" EAST, 1189.30 FEET; THENCE NORTH 89°43'10" EAST, 570.00 FEET; THENCE SOUTH 0°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°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°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.

SECRETARY'S CERTIFICATE

I, Sara L. Henning, do hereby certify that I am the duly elected and acting Assistant Secretary of Aquila, Inc. (the "Company"), and as such corporate officer, have in my custody and under my control the corporate records and seal of the Company.

I further certify that the resolutions attached hereto as Exhibit A are full, true and correct copies of resolutions adopted at a regular meeting of the Board of Directors of said Company on November 3, 2004, and said resolutions are in full force and effect and have not been amended or revoked.

IN WITNESS WHEREOF, I have hereunto signed this Certificate and affixed the seal of the Company this 13th day of January, 2005.


SARA L. HENNING
ASSISTANT SECRETARY

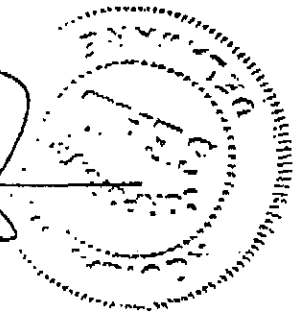


Exhibit A

**AQUILA, INC.
BOARD OF DIRECTORS
November 3, 2004**

RESOLUTIONS

Approve Construction of South Harper Peaking Facility

WHEREAS, on May 5, 2004, the Board authorized the Company to construct, and manage the construction of, a new power generation facility (then known as the Camp Branch Generating Facility, the "Project") on a site near Harrisonville, Missouri, in accordance with Company's management's proposal, including, if possible, financing of the Project through a Missouri Chapter 100 financing;

WHEREAS, the Company's management has since recommended that the Project be moved to a site on South Harper Road near Peculiar, Missouri;

WHEREAS, the Project will comprise three natural gas fired, Siemens Westinghouse Model 501D5A Econopac Units (the "Turbines") and the related equipment and adjacent facilities, including (a) an electrical substation on the South Harper site designed to allow interconnection of the generating units to the electrical transmission system, (2) a number of electric transmission system upgrades, including an electrical substation south of the project site to allow interconnection to the Company's existing transmission system, (3) a fuel gas interconnection to an interstate natural gas transmission system, including a downstream metering and regulating station (designed to filter, measure the volume and quality, and reduce the pressure of the natural gas to that required for each combustion turbine), and (4) a small modular office building designed to house the control and communications equipment for the plant;

WHEREAS, the Company's management has recommended that the best, least-cost method of managing the Project is to perform the role of a general contractor by (a) subcontracting procurement, engineering, and construction work to third parties, (b) assuming principal project risks associated with scheduling, costs and facility performance, and (c) establishing a risk management system that includes insurance requirements for each subcontractor and the Company's procurement of a comprehensive "Builders Risk" policy;

WHEREAS, the Company's budget for the Project is estimated to be \$133.2 million, including \$78 million previously committed to procure the Turbines and related equipment and approximately \$55.2 million of future direct costs for the plant, gas interconnection, water interconnection, and waste water interconnection;

WHEREAS, the Company's budget for electric transmission upgrades and substation construction and interconnection is estimated to be \$21.9 million; and

WHEREAS, if possible, the Company may finance the cost of acquiring, developing, constructing, and/or equipping the Project through a Missouri Chapter 100 financing; be it

RESOLVED, that the Company be, and hereby is, authorized to construct, and manage the construction of, the Project in accordance with Company's management proposal, provided the Company's future direct costs for (a) the plant, gas interconnection, water interconnection, and waste water interconnection do not exceed \$60 million and (b) the electric transmission upgrades, substation construction and interconnection do not exceed \$25 million;

RESOLVED FURTHER, that the Company be, and hereby is, authorized to finance part or all of the costs of acquiring, developing, constructing, and/or equipping the Project through a Chapter 100 financing or, alternatively, such other financing as the Company may pursue to complete the Project;

RESOLVED FURTHER, that, in connection with a Chapter 100 financing, the Company be, and hereby is, authorized to, among other things, (a) enter into an agreement whereby the Company agrees to make annual payments to a county, city or other municipal body organized and existing under the laws of the State of Missouri (the "Chapter 100 Bond Issuer") in lieu of certain taxes during the term of the Chapter 100 financing; (b) transfer to the Chapter 100 Bond Issuer title to the property on which the Project resides and ownership of the Turbines and all other property (including, without limitation, equipment) comprising the Project then owned by the Company; and, (c) contemporaneously with the aforementioned transfer, enter into a lease agreement with the Chapter 100 Bond Issuer whereby the Project is leased to the Company for a period not to exceed 30 years from the Project's commercial operation date;

RESOLVED FURTHER, that proper actions taken by Company officers and employees in furtherance of the foregoing resolution prior to the date hereof be, and hereby are, ratified; and

RESOLVED FURTHER, that the Chief Executive Officer, Chief Operating Officer, Chief Financial Officer, Treasurer, or any Senior Vice President of the Company be, and each hereby is, authorized, empowered, and directed to do and perform or cause to be done or performed all such acts and things (including, without limitation, the filing of applications and related materials with the Missouri Public Service Commission and other state or local agencies) and to make, execute and deliver any and all such agreements (including, without limitation, pre-annexation and development agreements, bond purchase agreements, escrow agreements, and blocked account agreements), affidavits, instruments, certificates, notices, letters, statements, powers of attorney, security filings, and other documents, in the name of and on behalf of the Company or any of its subsidiaries or affiliates, as said officers or any of them may deem necessary, advisable, or proper in order to give effect to the intent of the foregoing resolution and consummate the transactions described therein.