



Governing Body, City of Garden Plain
City Building, 507 N Main St
Wednesday, December 4, 2024 at 6:00 pm

1. Call to Order by Mayor Kevin Hammond
2. Approval of December 4, 2024 Agenda
3. Citizen Comments:
4. Consent Agenda:
 - a. Approval of November 6, 2024 CC Meeting Minutes
 - b. Approval of November 13, 2024 Special CC Meeting Minutes
 - c. Approval of November 21, 2024 Special CC Meeting Minutes
 - d. Approval of November 2024 Bills (Checks to include 44164 - 44245)
 - e. Department Reports
 - f. CMB License's Dollar General and 54 Station
 - g. Employee Christmas Gift Cards
5. New Business:
 - a. Ordinance 783 - KMGA Membership
 - b. Ordinance 784 - KMGA Acquisition Management Project Participation
 - c. Technical Service Agreement- Black Hills Energy
6. Municipal Court Report
7. Executive Session:
 - a. Attorney Client Privilege: K.S.A. 75-4319(b)(2) - 35 Minutes
8. Pardon Attorney
9. Treasurer Report
10. Governmental Remarks
11. Adjournment

*NOTE: this agenda is subject to change without notice



Governing Body, City of Garden Plain
City Building, 507 N Main St
November 6, 2024 at 6:00 pm

1. Call to Order by Mayor Kevin Hammond: (6:00):

Mayor Kevin Hammond called the November 6, 2024 City Council meeting to order followed by the Pledge of Allegiance and moment of silence. Council members present were Jenny Zoglman, Tracy Thul, Amy Hunter, Brent Randolph and Jessica Lyman. Also present were Kelly McElroy – Administrator, Morgan Koon – City Attorney, Tylor Struckman – W/WW Superintendent, Darren Haukap – Treasurer.

2. Approval of November 6, 2024 Agenda:

Remove item a under New Business. *Brent Randolph made a motion to adopt the November 6, 2024 agenda with changes, 2nd by Amy Hunter. Vote 5-0 motion carries.*

3. Citizen comments:

Shad Biggs with Halagains had concerns about the common consumption area that has been adopted by the City. City Attorney Morgan Koon answered his questions. Richard Owens, 2701 S Brookmeadow Dr, Garden Plain, wanted information on the termination of three employees. City Attorney Morgan Koon stated that personnel issues cannot be discussed for legal reasons.

4. Consent Agenda:

- a. Approval of October 2, 2024, CC Meeting Minutes
- b. Approval of October 2024 bills (checks to include 44077-44163)
Special projects (check to include 1065)

- c. Department reports

Brent Randolph made a motion to approve the consent agenda, 2nd by Tracy Thul. Vote 5-0 motion carries.

5. New Business:

- a. Ordinance 783 – removed from agenda

6. Municipal Court Report:

None

7. Executive Session:

- a. Non-elected Personnel: K.S.A. 75-4319(b)(1): **(6:08 – 6:28)** Mayor requested 20 minutes for non elected personnel. *Amy Hunter made a motion to enter executive session for 20 minutes under K.S.A. 75-4319(b)(1) matters of non-elected personnel, 2nd by Tracy Thul. Vote 5-0 motion carries. Council returned at 6:28 with no binding action taken.*

8. Pardon attorney: 6:29

9. Treasurer Report:

Nothing

10. Governmental Remarks:

None

11. **Adjournment:** *Brent Randolph made a motion to adjourn, 2nd by Tracy Thul. Vote: 5-0 motion carries.*

Respectfully submitted by Kimberly McCormick, MMC – City Clerk



Governing Body, City of Garden Plain
City Building, 505 N Main St
November 13, 2024 at 6:00 pm

Special Meeting:

1. Call to Order by Mayor Hammond:

Mayor Kevin Hammond called the meeting to order at 6:00 pm. Council members present were Jenny Zoglman, Jessica Lyman, Brent Randolph, Amy Hunter, and Tracy Thul. Also present were Kimberly McCormick – City Clerk, Kelly McElroy – City Administrator, and Morgan Koon- City Attorney and several members of the public.

2. Appointed Officer Hearing Pursuant to Chapter 1, Article 3, of the Code of the city of Garden Plain, Kansas:

Executive Session: (6:00 – 6:15) Brent Randolph made a motion to enter into executive session for 15 minutes pursuant to K.S.A. 75-4319(b)(1) matters of non-elected personnel, 2nd by Jenny Zoglman. Vote 5-0 motion carries. Council returned at 6:15 with no binding action taken.

Executive Session: (6:16 – 6:32) Brent Randolph made a motion to enter into executive session for 15 minutes pursuant to K.S.A. 75-4319(b)(1) matters of non-elected personnel, 2nd by Tracy Thul. Vote 5-0 motion carries. Council returned at 6:32 with no binding action taken.

Executive Session: (6:34 – 6:44) Tracy Thul made a motion to enter into executive session for 10 minutes pursuant to K.S.A. 75-4319(b)(2) attorney/client privilege, 2nd by Jenny Zoglman. Vote 5-0 motion carries. Council returned at 6:44 with no binding action.

Brent Randolph made a motion to rescind Chief Gene Garcia's suspension effective immediately, he is to have no communication with Lt. Bryan Crownover until some issues are worked out except through our attorney Morgan Koon, 2nd by Tracy Thul. Vote 5-0 motion carries.

3. Adjourn:

Brent Randolph made a motion to adjourn, 2nd by Amy Hunter. Vote: 5-0 motion carries.

Respectfully submitted by Kimberly McCormick, MMC – City Clerk



Governing Body, City of Garden Plain
City Building, 505 N Main St
November 21, 2024 at 6:15 pm

Special Meeting:

1. Call to Order by Mayor Hammond:

Mayor Kevin Hammond called the meeting to order at 6:15 pm. Council members present were Jenny Zoglman, Jessica Lyman, Brent Randolph, and Tracy Thul by phone. Also present were Kimberly McCormick – City Clerk, and Kelly McElroy – City Administrator.

2. Resolution 234 – Support of Renner development: *Brent Randolph made a motion to adopt Resolution 234, 2nd by Jenny Zoglman. Vote: 4-0 motion carries*

3. Adjourn:

Brent Randolph made a motion to adjourn, 2nd by Jenny Zoglman. Vote: 5-0 motion carries.

Respectfully submitted by Kimberly McCormick, MMC – City Clerk

ACCOUNTS PAYABLE CHECK REGISTER

| BANK# | BANK NAME | CHECK# | DATE | ACCOUNT# | NAME | CHECK AMOUNT | CLEARED | MANUAL | VOID | REASON FOR VOID |
|---------------------------|-----------|--------|------------|----------|--------------------------------|--------------|---------|--------|------|-----------------|
| 1 GARDEN PLAIN STATE BANK | | | | | | | | | | |
| | | 44164 | 11/01/2024 | 897 | ALERT 360 - WICHITA | 356.80 | | | | |
| | | 44165 | 11/01/2024 | 779 | CORE & MAIN | 1,684.42 | | | | |
| | | 44166 | 11/01/2024 | 845 | EVERGY | 1,100.42 | | | | |
| | | 44167 | 11/01/2024 | 9 | FISHER LUMBER COMPANY INC | 671.43 | | | | |
| | | 44168 | 11/01/2024 | 15 | GATEWAY OF GARDEN PLAIN | 200.00 | | | | |
| | | 44169 | 11/01/2024 | 988 | HYSPECO, INC | 3,895.20 | | | | |
| | | 44170 | 11/01/2024 | 843 | JOHNSON'S OUTDOOR POWER EQUIP | 394.94 | | | | |
| | | 44171 | 11/01/2024 | 700 | KIMBERLY MCCORMICK | 54.14 | | | | |
| | | 44172 | 11/01/2024 | 989 | KINKS LLC | 805.00 | | | | |
| | | 44173 | 11/01/2024 | 908 | KURT BOOKOUT | 632.25 | | | | |
| | | 44174 | 11/01/2024 | 737 | MERIDIAN ANALYTICAL LABS | 90.00 | | | | |
| | | 44175 | 11/01/2024 | 680 | MIDWEST SINGLE SOURCE | 131.10 | | | | |
| | | 44176 | 11/01/2024 | 898 | NATIONWIDE | 100.00 | | | | |
| | | 44177 | 11/01/2024 | 851 | RANSON FINANCIAL GROUP | 3,801.25 | | | | |
| | | 44178 | 11/01/2024 | 930 | THE CREATIVE INTERNET LLC | 195.00 | | | | |
| | | 44179 | 11/01/2024 | 17 | TIMES-SENTINEL NEWSPAPERS | 472.50 | | | | |
| | | 44180 | 11/01/2024 | 565 | VERIZON WIRELESS | 247.56 | | | | |
| | | 44181 | 11/01/2024 | 180 | WAL-MART | 99.60 | | | | |
| | | 44182 | 11/08/2024 | 990 | CITY OF CONWAY SPRINGS | 600.00 | | | | |
| | | 44183 | 11/08/2024 | 779 | CORE & MAIN | 296.61 | | | | |
| | | 44184 | 11/08/2024 | 928 | CULLIGAN OF WICHITA | 34.00 | | | | |
| | | 44185 | 11/08/2024 | 916 | IDEATEK TELCOM LLC | 392.00 | | | | |
| | | 44186 | 11/08/2024 | 709 | MABCD | 1,108.83 | | | | |
| | | 44187 | 11/08/2024 | 139 | MAYER SPECIALTY SERVICES LLC | 825.00 | | | | |
| | | 44188 | 11/08/2024 | 220 | SAM'S CLUB | 326.72 | | | | |
| | | 44189 | 11/08/2024 | 624 | SHARPE PRINTING CO | 2,337.30 | | | | |
| | | 44190 | 11/08/2024 | 633 | UNITED RENTALS | 21.70 | | | | |
| | | 44191 | 11/08/2024 | 594 | VISA | 968.61 | | | | |
| | | 44192 | 11/08/2024 | 487 | VISION CARE DIRECT | 145.04 | | | | |
| * | | 44193 | Thru 44195 | | | | | | | |
| | | 44196 | 11/15/2024 | 814 | AXIOM INSTRUMENTATION SERVICES | 1,380.00 | | | | |
| | | 44197 | 11/15/2024 | 474 | BECKER COMPUTER SERVICES INC | 1,707.00 | | | | |
| | | 44198 | 11/15/2024 | 991 | COXY'S METAL WORKS | 107.50 | | | | |
| | | 44199 | 11/15/2024 | 68 | D C & B SUPPLY INC | 1,598.00 | | | | |
| | | 44200 | 11/15/2024 | 637 | INLAND TRUCK PARTS | 2,116.70 | | | | |
| | | 44201 | 11/15/2024 | 37 | KANSAS ONE-CALL SYSTEM INC | 61.20 | | | | |
| | | 44202 | 11/15/2024 | 985 | KANZA COOPERATIVE ASSOC | 2,227.06 | | | | |
| | | 44203 | 11/15/2024 | 700 | KIMBERLY MCCORMICK | 266.66 | | | | |
| | | 44204 | 11/15/2024 | 806 | KIRKHAM MICHAEL | 3,312.86 | | | | |
| | | 44205 | 11/15/2024 | 924 | KOON LAW FIRM LLC | 2,575.00 | | | | |
| | | 44206 | 11/15/2024 | 737 | MERIDIAN ANALYTICAL LABS | 717.00 | | | | |
| | | 44207 | 11/15/2024 | 956 | MISSION COMMUNICATIONS LLC | 347.40 | | | | |
| | | 44208 | 11/15/2024 | 981 | PVS DX INC | 40.00 | | | | |
| | | 44209 | 11/15/2024 | 957 | ROYAL PUBLISHING | 250.00 | | | | |
| | | 44210 | 11/15/2024 | 24 | SEDGWICK COUNTY ELECTRIC COOP | 630.28 | | | | |
| | | 44211 | 11/15/2024 | 867 | SYMMETRY ENERGY SOLUTIONS | 729.98 | | | | |
| | | 44212 | 11/15/2024 | 959 | TYLOR STRUCKMAN | 566.17 | | | | |
| | | 44213 | 11/15/2024 | 594 | VISA | 2,859.83 | | | | |
| | | 44214 | 11/15/2024 | 45 | WASTE CONNECTIONS OF KS INC | 6,297.20 | | | | |
| | | 44215 | 11/15/2024 | 311 | WATERWISE ENTERPRISES LLC | 793.00 | | | | |
| | | 44216 | 11/15/2024 | 906 | WELLS FARGO | 58.41 | | | | |

ACCOUNTS PAYABLE CHECK REGISTER

| BANK# | BANK NAME | CHECK# | DATE | ACCOUNT# | NAME | CHECK AMOUNT | CLEARED | MANUAL | VOID | REASON FOR VOID |
|-------|-----------|--------|------------|----------|-------------------------------|--------------|---------|--------|-------|-----------------|
| * | | 44217 | Thru | 44218 | | | | | | |
| | | 44219 | 11/22/2024 | 634 | ATLAS ELECTRIC LLC | 5,200.00 | | | | |
| | | 44220 | 11/22/2024 | 33 | BLACK HILLS ENERGY | 34.49 | | | | |
| | | 44221 | 11/22/2024 | 2 | BCBS OF KANSAS | 9,477.95 | | | | |
| | | 44222 | 11/22/2024 | 928 | CULLIGAN OF WICHITA | 14.00 | | | | |
| | | 44223 | 11/22/2024 | 386 | DWAYNE HAUKAP CONSTRUCTION | 450.00 | | | | |
| | | 44224 | 11/22/2024 | 845 | EVERGY | 26.55 | | | | |
| | | 44225 | 11/22/2024 | 52 | KANSAS STATE TREASURER | 164.50 | | | | |
| | | 44226 | 11/22/2024 | 116 | MESA PRODUCTS INC | 533.71 | | | | |
| | | 44227 | 11/22/2024 | 556 | MID CONTINENT MARKET CNR | 2,019.72 | | | | |
| | | 44228 | 11/22/2024 | 777 | R K BLACK INC | 106.23 | | | | |
| | | 44229 | 11/22/2024 | 408 | RE PEDROTTI CO INC | 340.00 | | | | |
| | | 44230 | 11/22/2024 | 17 | TIMES-SENTINEL NEWSPAPERS | 29.00 | | | | |
| | | 44231 | 11/22/2024 | 838 | UTILITY SAFETY AND DESIGN INC | 955.03 | | | | |
| | | 44232 | 11/22/2024 | 565 | VERIZON WIRELESS | 476.40 | | | | |
| | | 44233 | 11/22/2024 | 787 | VISION ALLIANCE MARKETING LLC | 250.00 | | | | |
| | | 44234 | 11/22/2024 | 906 | WELLS FARGO | 167.10 | | | | |
| | | 44235 | 11/27/2024 | 224 | AFLAC ADMIN SERVICES | 556.98 | | | | |
| | | 44236 | 11/27/2024 | 973 | AGRI ENVIRONMENTAL SERVICES | 1,110.00 | | | | |
| | | 44237 | 11/27/2024 | 96 | BECKER BROS | 89.00 | | | | |
| | | 44238 | 11/27/2024 | 845 | EVERGY | .00 | | | VOID: | |
| | | 44239 | 11/27/2024 | 845 | EVERGY | 1,878.74 | | | | |
| | | 44240 | 11/27/2024 | 12 | LEAGUE OF KS MUNICIPALITIES | 432.13 | | | | |
| | | 44241 | 11/27/2024 | 992 | LIBERTY ICE SOLUTIONS LLC | 250.00 | | | | |
| | | 44242 | 11/27/2024 | 783 | SOUTH CENTRAL SEALING LLC | 4,487.36 | | | | |
| | | 44243 | 11/27/2024 | 102 | ST ANTHONY CHURCH | 500.00 | | | | |
| | | 44244 | 11/27/2024 | 565 | VERIZON WIRELESS | 247.56 | | | | |
| | | 44245 | 11/27/2024 | 180 | WAL-MART | 38.72 | | | | |
| * | | 44246 | | | | | | | | |
| | | 1468 | 11/05/2024 | 79 | SALES & EXCISE TAX | 359.42 | | | E-PAY | |
| | | 1469 | 11/08/2024 | 1 | KPERS | 3,957.92 | | | E-PAY | |
| | | 1470 | 11/08/2024 | 6 | KS DEPARTMENT OF REVENUE | 1,292.02 | | | E-PAY | |
| | | 1471 | 11/08/2024 | 562 | EFTPS | 7,285.01 | | | E-PAY | |
| | | 1472 | 11/10/2024 | 909 | CSG FORTE PAYMENTS INC | 6.00 | | | E-PAY | |
| | | 1473 | 11/22/2024 | 1 | KPERS | 3,098.57 | | | E-PAY | |
| | | 1474 | 11/22/2024 | 6 | KS DEPARTMENT OF REVENUE | 896.61 | | | E-PAY | |
| | | 1475 | 11/22/2024 | 562 | EFTPS | 4,475.67 | | | E-PAY | |
| | | 1476 | 11/22/2024 | 725 | KPERS-OGLI | 14.80 | | | E-PAY | |
| | | 1477 | 11/21/2024 | 710 | STATE OF KANSAS DEPT OF ADMIN | 25.30 | | | E-PAY | |

* See Check Summary below for detail on gaps and checks from other modules.

| BANK TOTALS: | | | | |
|--------------|-----------------|-------------|-----------|--------|
| | OUTSTANDING | 101,875.16 | | |
| | CLEARED | .00 | | |
| | | ----- | | |
| | BANK 1 TOTAL | 101,875.16 | | |
| | **VOIDED** | .00 | | |
| FUND | TOTAL | OUTSTANDING | CLEARED | VOIDED |
| 10 | GENERAL FUND | 37,519.37 | 37,519.37 | .00 |
| 13 | LOCAL SALES TAX | 8,251.25 | 8,251.25 | .00 |

ACCOUNTS PAYABLE CHECK REGISTER

| BANK# | BANK NAME | ACCOUNT# | NAME | CHECK AMOUNT | CLEARED | MANUAL | VOID | REASON FOR VOID |
|-------|-----------|----------|-----------------|--------------|-----------|--------|------|-----------------|
| | | 40 | SPECIAL STREETS | 8,382.56 | 8,382.56 | | .00 | .00 |
| | | 55 | SOLID WASTE | 6,309.85 | 6,309.85 | | .00 | .00 |
| | | 60 | GAS FUND | 13,675.98 | 13,675.98 | | .00 | .00 |
| | | 70 | SEWER FUND | 15,808.94 | 15,808.94 | | .00 | .00 |
| | | 80 | WATER FUND | 11,364.97 | 11,364.97 | | .00 | .00 |
| | | 98 | LIBRARY FUND | 562.24 | 562.24 | | .00 | .00 |

ACCOUNTS PAYABLE CHECK REGISTER
***** CHECK SUMMARY *****

BANK# **BANK NAME**
CHECK# **DESCRIPTION**

1 GARDEN PLAIN STATE BANK

| | | |
|------------|-------|-------------------------|
| 44164 Thru | 44192 | Accounts Payable Checks |
| 44193 Thru | 44195 | Payroll Checks |
| 44196 Thru | 44216 | Accounts Payable Checks |
| 44217 Thru | 44218 | Utility Billing Checks |
| 44219 Thru | 44245 | Accounts Payable Checks |
| 1468 Thru | 1477 | Accounts Payable E-Pay |

To: Garden Plain City Council
FR: City Staff
RE: **November Department Reports and Project Updates**

Background:

City staff is pleased to provide the following updates on current projects and initiatives.

Finance:

Sales tax revenue:

November sales tax revenues totaled \$29,340.17 with the City’s local 1% portion representing \$11,566.81 of the total amount.

This is a decrease of 84% (or -\$24,789.44) compared to November 2023 total revenues, and a decrease of 14% (or -\$4,061.77) from last month’s total revenues. Year to date total revenues are up 3% (or \$10,883.92) over the same time period in 2023.

The following chart shows total sales tax revenues YTD as well as a break out of the City’s 1% sales tax YTD. It is not uncommon for sales tax to fluctuate month to month as retailers have some discretion as to when they report and file their revenues. For example, some businesses report monthly, quarterly, bi-annually, or annually.

| Month | Total 2024 Sales Tax Revenues | GP City 1% 2024 Sales Tax Revenues |
|-------------------------|-------------------------------|------------------------------------|
| Jan | \$ 31,503.67 | \$ 13,206.25 |
| Feb | \$ 39,137.89 | \$ 17,852.82 |
| Mar | \$ 28,614.62 | \$ 11,449.87 |
| Apr | \$ 31,026.71 | \$ 13,762.03 |
| May | \$ 31,961.01 | \$ 12,128.50 |
| Jun | \$ 30,691.33 | \$ 12,512.68 |
| Jul | \$ 32,272.51 | \$ 12,468.01 |
| Aug | \$ 32,929.34 | \$ 13,277.17 |
| Sep | \$ 32,334.14 | \$ 12,527.37 |
| Oct | \$ 33,401.94 | \$ 12,757.32 |
| Nov | \$ 29,340.17 | \$ 11,566.81 |
| Dec | | |
| Annual YTD Total | \$ 353,213.33 | \$ 143,508.83 |

As reported in August, the Sedgwick County Commission is still discussing and considering a county-wide sales tax. This will be in addition to the current sales tax rates. It will take a vote of the people at an election to authorize

this proposal. The County's proposal stems from an ongoing discussion about consolidation of services provided by cities and counties and utilizing sales tax revenues to supplement or decrease property taxes. There is an upcoming meeting with County officials as to how this proposal will potentially impact both services and revenues

Police:Law Enforcement Activity:

10 reportable case's generated over the past month that required investigations, most of which were generic in nature and are inclusive of reportable accident reports. There was 11 traffic stops for a variety of traffic infractions with speeding being the number one offense. This consisted of 2 traffic citations 5 warnings. There were two accident reports this past month and one is currently being investigated as a hit and run activity. (As of 11-27)

Other Activity:

231 area business checks, 80 physical building checks (as a FYI these building checks include the physical walk through on a regular basis in both facilities of the grade and high school buildings to include door inspections and entry areas), 4 outside agency assists, 3 dispatched calls for Garden Plain (check welfare, calls for service, animal/pets at large, etc.) There were 7 VIN inspections and one fingerprint service performed this past month.

Provided security for 3 GPHS home varsity football playoff events. (As of 11-27)

We are currently participating in the Holiday KDOT/KSTRO safety program for this past weekend (Thanksgiving)

Scheduled Training:

Chief attended an advanced patrol rifle AR platform armorer's class on November 19-20, The Sedgwick County Area Chief's meeting, a Communication's radio maintenance and encryption update. We are late in receiving our new radios for the switchover beginning shortly after the first of the year regarding encryption. The manufacturer and distributor were waiting to ship because they did not have all the accessories ordered and required. Additionally they required re- programmed for the grid layout in our area. (Sedgwick County and adjacent areas) Hopefully we will get this all taken care of for the switch.

Project Update: Municipal Pool:

Waters Edge, the City's municipal aquatic facility design firm, is moving forward with the project engineering. It is 30% complete. At this stage, we will issue a Request for Qualifications (RFQ) and/or a Request for Proposals (RFP) for construction teams. We will be utilizing a Gross Maximum Price (GMP or sometimes referred to as GMAX) process. In short, that means we know our maximum budget of \$3.2 M (\$1.67 M funded by the grant), and will bid out some alternatives for the amenities such as slides, diving boards, zip lines, basketball goals, number of features in the splash pad area, etc. without going over the maximum budget. We can select our "must have" items and we can defer other items, if needed.

We are planning to issue the RFQ or RFP in the next two weeks. It will be open for several weeks. Then we will receive the responses, they will be scored, and the Council will select the winning contractors/team at an upcoming Council meeting.

We are still moving the project forward at a good pace, and weather permitting, construction should be complete in time for the 2026 swimming season.

Project Update: Main and Garnett Drainage:

Vogts Parga is scheduled to begin Phase II of the Garnett and Main Street Drainage on Dec. 2, weather permitting. Unfortunately during the recent rains, someone drove through the newly completed area of Phase I and seriously rutted it up. The contractor estimates the job will take approximately one week.

Christmas Kickoff:

The annual Christmas Kickoff event was held on Saturday, November 30th. It was well attended. The chili and cinnamon roll feed raised over \$1,000 in donations benefiting the Council of Hope to help pay for the cost of the holiday lighting display.

Upcoming Special Events/City Closures:

- 12.04.24 – City Council Meeting – 6 PM
- 12.11.24 – EDC Meeting – 7 PM
- 12.17.24 – Municipal Court – 6 PM
- 12.24 & 12.25.24 – City Facilities Closed for Christmas Holiday
- 12.29.24 – City Planning Commission meeting – Cancelled
- 01.01.25 – City Facilities Closed for New Year's Day
- 01.08.25 – City Council Meeting – Rescheduled from 01.01.25

Recommended Action: The City Council is asked to:

1. Receive and file

Attachments:

None

To: Garden Plain City Council
FR: City Staff
RE: **Employee Christmas Gift Cards**

Background:

For the past several years the City Council has authorized the purchase of \$100 gift cards for each employee as a Christmas gift, in appreciation of their service to the community.

The Council has typically considered this at their December meeting.

Recommended Action: The City Council is asked to:

1. Make a recommendation as to whether to purchase the gift cards, and as to the amount.

Attachments:

None

To: Garden Plain City Council
FR: City Staff
RE: **Consider Ordinance 783 – KMGA Membership**

Background:

In 1990 the City of Garden Plain entered into an interlocal agreement with Kansas Municipal Gas Agency (KMGA) that defined and organized the City’s operation of the natural gas system, creating a separate legal entity. Pursuant to state statute, this interlocal agreement authorized the City Council to also act as the Board of Public Utilities on behalf of the natural gas system, purchasing natural gas through KMGA suppliers. The interlocal agreement is attached for reference.

At some point, the City left KMGA and began purchasing gas directly from several different entities. At this time, the City desires to re-engage with KMGA for natural gas acquisition. Ordinance 783 authorizes the City to rejoin KMGA; the Ordinance will be provided to the Council at the meeting.

Recommended Action: The City Council is asked to:

1. Adopt Ordinance 783, authorizing the City to rejoin KMGA.

Attachments:

- A. KMGA 1990 Interlocal Agreement
- B. Ordinance 783

GILMORE & BELL
5/30/90

INTERLOCAL COOPERATION AGREEMENT

OF

KANSAS MUNICIPAL GAS AGENCY

INTERLOCAL COOPERATION AGREEMENT

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INTERLOCAL COOPERATION AGREEMENT CREATING
THE KANSAS MUNICIPAL GAS AGENCY

WHEREAS, K.S.A. 12-2901 et seq., as amended, (the "Act") provides inter alia that in order for public agencies to make the most efficient use of their powers, such public agencies may cooperate with other public agencies on a basis of mutual advantage to provide services in a manner that will best accord with economic and other factors influencing the needs and development of such public agencies; and

WHEREAS, the Act authorizes public agencies to enter into interlocal agreements with one or more other public agencies for joint or cooperative action pursuant to the provisions of the Act; and

WHEREAS, the Act provides that any interlocal agreement entered into under the provisions of the Act may authorize the creation of a separate legal entity to conduct the joint or cooperative action provided for in such interlocal agreement. Such separate legal entity shall constitute a body corporate and politic and shall act as the constituted authority of the public agencies on behalf of which any bonds, notes or other evidences of indebtedness are issued by such separate legal entity; and

WHEREAS, certain public agencies within the State of Kansas desire to create a separate legal entity pursuant to the Act to afford an economical means of providing financing to such public agencies for their respective projects, including acquiring, planning, studying and developing supply, transmission and distribution facilities and programs and for the purpose of securing an adequate, economical and reliable supply of natural gas and transmitting the same for distribution through the distribution systems of such public agencies or for the use by other utility systems of such public agencies; or to perform any other activities, services or functions permitted to be undertaken by a public agency.

NOW, THEREFORE, IT IS HEREBY AGREED BY AND AMONG THE PARTIES HERETO, AS FOLLOWS:

DEFINITIONS

"Act" shall mean K.S.A. 12-2901 et seq., as amended.

"Affiliate Member" shall mean any municipality or quasi-municipal body that has become associated with the Agency for a limited or specified purpose.

"Agency" shall mean the Kansas Municipal Gas Agency created pursuant to this Agreement.

"Agreement" shall mean this Interlocal Cooperation Agreement.

"Board" or "Board of Directors" shall mean the governing board of directors of the Agency authorized and selected in accordance with Article VII of the Agreement.

"Bylaws" shall mean the bylaws of the Agency, as may be amended from time to time.

"Director" shall mean the representative to the Board of Directors selected by the Members in accordance with Article VII hereof.

"Members" shall mean those Public Agencies executing this Agreement (initially reflected in Exhibit A attached hereto) as may be modified for Members who withdraw or Public Agencies who are added in accordance with Article VII hereof.

"Project" shall mean any plant, works, system, facilities and real and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission or purchase, sale, use, exchange or interchange of natural gas or any other municipal utility system or any interest therein or capacity thereof; and including all studies, planning, administration, compliance with state and federal regulations, and ancillary functions thereto.

"Public Agency(ies)" shall mean a public agency as such term is defined to in the Act.

"State" shall mean the state of Kansas.

"System" shall mean any municipally owned natural gas, electric or other utility system.

ARTICLE I

Purpose of Agreement

The purpose of this Agreement is to organize a separate legal entity under and in accordance with the Act.

ARTICLE II

Representations of Members

Each Member hereby represents that:

2.1. It is a Public Agency duly organized and existing under the laws of the State of Kansas.

2.2. It currently owns and operates a natural gas system; an electric system that utilizes natural gas; a utility that uses natural gas in its operation or production; or any other municipal utility system.

2.3. Its governing body, by appropriate action, authorized the execution of this Agreement.

ARTICLE III

Creation

3.1. Pursuant to provisions of the Act, the Members hereby organize and create a separate legal entity under the Act.

3.2. The name of the separate legal entity created pursuant to this Agreement shall be the Kansas Municipal Gas Agency.

ARTICLE IV

Duration

The duration of the Agency shall be perpetual, unless terminated in accordance with Article IX of the Agreement.

ARTICLE V

Purposes of the Agency

The purpose of the Agency shall be:

5.1. To assist its Members and Affiliate Members in acquiring, planning, studying and developing natural gas and other energy supply, transmission and distribution facilities and programs; securing an adequate, economical and reliable supply of natural gas or other energy and transmitting the same for use or distribution by the Systems of such Public Agencies; and acquiring, planning, studying and developing Projects for any other municipal utility.

5.2. To assist Members on a joint or individual basis in the financing or refinancing of Projects.

5.3. To allow cooperation between the Members and Affiliate Members for the efficient use of all the powers of Public Agencies.

5.4. To engage in any lawful act or activity for which the Agency or other Public Agencies may be organized under the Act or other laws of the State of Kansas.

ARTICLE VI

Powers

6.1. The Agency shall have all the powers set out in the Act and any powers granted to Systems of Public Agencies as otherwise permitted by law.

6.2. In addition to powers set forth in the Act, the Agency also may exercise the following powers:

(a) to make, amend and repeal bylaws consistent with the provisions of this Agreement;

(b) to enter into franchises, contracts and agreements with the State or the United States or instrumentality thereof, or any public or private person, partnership, association or corporation of the State or of the United States; for the planning, development, construction or operation of any facility for the production, transmission or use of natural gas or for any common or other service rendered to, for or by the Agency;

(c) to make and enter into any other contract or agreement necessary or incidental to the performance of its duties and the execution of its powers under this Agreement, including contracts for the purchase, sale, transmission, use or exchange of natural gas with the United States or with any other Systems that utilize natural gas, either privately, cooperatively or publicly owned, within and without the State, subject to the limitations and restrictions provided in this Agreement or in the Bylaws of the Agency;

(d) to plan, finance, construct, purchase, operate, maintain, use, share costs of, own, lease, sell, dispose of or otherwise participate in any Project or any portion thereof within or without the State; or to purchase, own, sell, dispose of or otherwise participate in securities issued in connection with the financing of any Project or any portion thereof or to acquire any interest in or any right to any Project

and act as agent, or designate one or more of the other persons participating in a Project to act as its agent, in connection with the planning, acquisition, construction, reconstruction, operation, maintenance, repair, extension of improvement of such Project;

(e) to issue bonds, notes or other evidence of indebtedness, in its own name, on behalf of the Public Agencies that are or become Members for those purposes for which such Public Agencies are authorized pursuant to the constitution and laws of the State to issue bonds, notes or other evidence of indebtedness;

(f) to establish, revise and collect rates or charges for natural gas use and all other services, facilities and commodities used, sold, furnished or supplied by the Agency;

(g) to acquire, hold, lease to and from and dispose of real or personal property that is necessary for the performance of its duties and the execution of its powers under this Agreement and the Bylaws;

(h) to investigate the desirability of and the necessity for additional sources and supplies of natural gas, and make studies, surveys and estimates as may be necessary to determine the feasibility and costs thereof;

(i) to cooperate with other persons in the development of sources and supplies of natural gas;

(j) to invest money of the Agency not required for immediate use, including proceeds from the sale of any debt obligations, subject to any agreement with holders or owners of such debt obligations;

(k) to purchase, sell, exchange or transmit natural gas within and outside the State in such amounts as it determines to be necessary and appropriate to make the most effective use of its powers and to meet its responsibilities, and to enter into agreements with any person with respect to that purchase, sale, exchange or transmission.

(l) to procure insurance against any losses in connection with its property, operations or assets in such amounts and from such insurers as it deems desirable;

(m) to mortgage, pledge and grant a security interest in any or all of its real and personal property to secure the payment of its bonds, notes, or other obligations or contracts; and

(n) to exercise all other powers not inconsistent with the constitutions of the State or the United States, which powers may be reasonably necessary or appropriate for or incidental to the effectuation of its authorized purposes; or to exercise any of the powers enumerated in this section; and generally to exercise in connection with its property and affairs and in connection with property within its control, any and all powers that may be exercised by a Public Agency in connection with similar property and affairs;

ARTICLE VII

Organization, Composition and Nature

7.1. The Members of the Agency shall be those Public Agencies executing this Agreement.

7.2. Any Public Agency may become a Member or withdraw as a Member if such membership or withdrawal is authorized by ordinance or resolution of the governing body of such Public Agency and consented to by resolution of the Board of Directors.

7.3. The withdrawal of a Member that has any unpaid assessments owed to the Agency shall not be effective until such time as the assessments have been paid in full or waived by two-thirds (2/3) vote of the Board of Directors. The withdrawing Member shall not be entitled to receive any real or personal property of the Agency by reason of its withdrawal. Withdrawal of a Member shall not be deemed to terminate or diminish any obligations that such Member may have to the Agency pursuant to written agreements or contracts with the Agency separate and apart from this Agreement except as provided in such other agreements or contracts.

7.4. The property and business of the Agency shall be managed by the Board of Directors. The Board of Directors shall consist of the number of Directors established by the Bylaws, provided that each Member shall be represented by not less than one (1) Director, and provided that there shall not be less than three (3) Directors. The Directors shall be selected by the governing bodies of the Members. In the event that the number of Members is less than three (3), each Member shall be represented by the number of Directors that would constitute a board of not less than three (3) Directors, provided that each Member shall select the same number of Directors.

Each Member may also select an Alternate for any Director in accordance with the provisions of the Bylaws.

7.5. A quorum of the Board of Directors shall be determined in accordance with the Bylaws.

7.6. The Bylaws of the Agency may be adopted by an affirmative vote of the Directors or voting Alternates representing not less than two-thirds (2/3) of the Members. Rules and regulations may be adopted and the Bylaws may be amended, supplemented or repealed in the manner set forth in the Bylaws. The bylaws may provide among other things for any one or more of the following:

- (a) a provision for weighted voting in the event of a deadlock on the Board of Directors;
- (b) a provision allowing the Board of Directors to operate through an executive committee or special committees of the Board between Board meetings;
- (c) a provision for the indemnification of officers and Directors of the Agency; and
- (d) a provision for assessments of administrative and operating expenses against Members and Affiliate Members.

7.7. The Board of Directors shall elect from its membership a President, Vice-President and Secretary-Treasurer. The Board may also elect or appoint other officers or a general manager as it deems advisable, in accordance with the Bylaws.

7.8. The Board of Directors shall have the authority to accept Affiliate Members of the Agency; which Affiliate Members shall not be Members of the Agency, shall not be entitled to vote on Agency matters and shall not execute this Agreement or amendments hereto.

ARTICLE VIII

Financing and Budget

8.1. The Board of Directors shall determine the methods of obtaining financing for the Agency on behalf of its Members in any manner set forth in the Act or otherwise permitted by law where such is not inconsistent with this Agreement.

8.2. The Agency is authorized to issue bonds, notes or other evidence of indebtedness, in its own name, on behalf of the Members for those purposes for which the Members are authorized pursuant to the constitution and laws of the State to issue bonds, notes or other evidence of indebtedness. Such bonds, notes or other indebtedness of the Agency may be payable from or secured by any property, interest or income of the Agency, from whatever source derived, but shall not constitute

a charge against or indebtedness of any Member on behalf of which such bonds, notes or other indebtedness are issued. In issuing such bonds, notes or other indebtedness, the Agency shall act as the constituted authority of the Members on behalf of which such bonds, notes or other indebtedness are issued. The Agency may also acquire any bonds, notes or other evidence of indebtedness issued by a Member payable from or secured by any property, interest or income of the Member, from whatever source derived, as long as evidence of indebtedness is lawfully issued by the Member.

8.3. Obligations of the Members shall be payable solely from agreements entered into with the Agency pursuant to this Agreement or the Act or obligations sold to the Agency. The Members are not liable for the obligations of the Agency; but each Member shall be liable to the Agency to the extent of its obligations specified in any purchase contract or agreement to pay for natural gas or services or any other specific agreement that the Member enters into with the Agency pursuant to this Agreement or the Act.

8.4. The Board of Directors shall conduct one or more meetings annually to discuss the Agency's budget for the ensuing year. The budget shall be adopted by the Board of Directors.

ARTICLE IX

Termination

This Agreement and the Agency may be terminated by the written consent to such termination by at least two-thirds (2/3) of the Members; provided that prior to such termination all contractual obligations, indebtedness, warrants and other financial obligations of the Agency shall have been discharged or paid in full or there has been deposited in escrow with a state or national bank located in the State of Kansas and having full trust powers, cash or direct obligations of the government of the United States of America or obligations, the payment of the principal of and interest on which is unconditionally guaranteed by the government of the United States of America, in amounts sufficient, together with the interest earned on such obligations without reinvestment, to pay such indebtedness, warrants and other financial obligations in full when due. Thereafter, the Board of Directors of the Agency shall liquidate the Agency and distribute the assets of the Agency or the net proceeds thereof to the Members in a manner to be determined by it pursuant to law, taking into account, in such manner as the Board of Directors of the Agency in its discretion deems appropriate, the relative contributions of cash and other property to the Agency, provided, that no property of the Agency shall inure to the benefit of any

private individual, corporation or association. In the event that the Board of Directors of the Agency is unable to decide as to the manner in which the Agency shall be liquidated and the net proceeds distributed it shall be determined by a court of appropriate jurisdiction.

ARTICLE X

Agency Property

Title to all real and personal property of the Agency shall be acquired, held and disposed of in the name of the Agency unless otherwise required by law or by the terms of a gift or grant.

ARTICLE XI

Powers of Board of Directors

The Board of Directors shall have all powers designated in the Act and set forth in this Agreement and the Bylaws.

ARTICLE XII

Amendments

Except as provided in Article VII concerning the withdrawal or addition of Members, this Agreement may be amended or supplemented in whole or in part by action of the Board of Directors when such amendments are approved by ordinance or resolution of the governing bodies of each Member and executed by appropriate officials of each Member. Any such amendments shall be submitted and approved by the Attorney General of the State, filed with the Register of Deeds of each county where a Member is located, and filed with the Secretary of State.

ARTICLE XIII

Effective Date

This Agreement shall take effect upon its approval by the Attorney General of the State of Kansas, upon the filing of the Agreement with the Registers' of Deeds of each county where a Member is located and upon filing with the Kansas Secretary of State.

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF Beloit, KANSAS

(Seal)

Edward L. Specht
Mayor

ATTEST:

Charlene Abel
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
COUNTY OF Mitchell) SS.

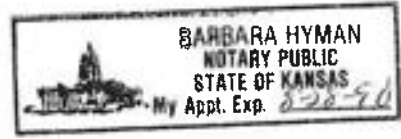
This instrument was acknowledged before me on 5th day of July 1990, by Edward L. Specht, Mayor, and Charlene Abel, City Clerk, of the City of Beloit, Kansas.

(Seal)

Barbara Hyman
Notary Public

My Commission Expires:

8-28-90



IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF BURLINGAME, KANSAS

(Seal)

Donald H. Smith
Mayor

ATTEST:

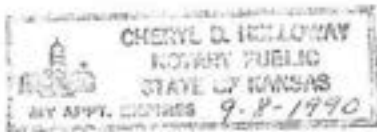
Kenneth Rhoads
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF OSAGE)

This instrument was acknowledged before me on 16th day of July, 1990, by Donald H. Smith, Mayor, and Kenneth Rhoads, City Clerk, of the City of Burlingame, Kansas.

(Seal)



Cheryl D. Holloway
Notary Public

My Commission Expires:

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF CHANUTE, KANSAS



Bill Morlan
Mayor

James D. Youngberg
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF NEOSHO)

This instrument was acknowledged before me on 5th day of June, 1990, by Bill Morlan, Mayor, and James D. Youngberg, City Clerk, of the City of Chanute, Kansas.

(Seal)



Joan Howard
Notary Public

My Commission Expires:

5-23-91

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF CLAY CENTER, KANSAS

(Seal)

Donald Reed
Mayor

ATTEST:

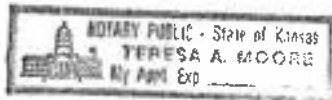
Calvin Wohler
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF CLAY)

This instrument was acknowledged before me on 18th day of July, 1990, by Donald Reed, Mayor, and Calvin Wohler, City Clerk, of the City of Clay Center, Kansas.

(Seal)



Teresa A. Moore
Notary Public

My Commission Expires:

7-9-93

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF GARDEN PLAIN, KANSAS

(Seal)

Robert E. Bergh
Mayor

ATTEST:

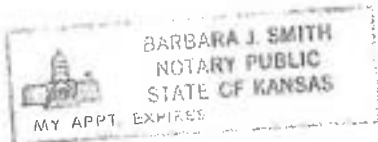
Virginia Thirnesch
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF SEDGWICK)

This instrument was acknowledged before me on 21st day of June, 1990, by Robert E. Bergh, Mayor, and Virginia Thirnesch, City Clerk, of the City of Garden Plain, Kansas.

(Seal)



Barbara J. Smith
Notary Public

My Commission Expires:

July 10, 1993

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF HOISINGTON, KANSAS

(Seal)

Vernon Skolaut
Mayor

ATTEST:

Mary Joan Ray
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF BARTON)

This instrument was acknowledged before me on 9th day of July, 1990, by Vernon Skolaut, Mayor, and Mary Joan Ray, City Clerk, of the City of Hoisington, Kansas.

(Seal)



Wanda Smith
Notary Public

My Commission Expires:

April 20, 1991

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF Humboldt, KANSAS



Judith C. Holinsworth
Mayor

Rachel A. Mueller
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
COUNTY OF Allen) SS.

This instrument was acknowledged before me on 20th day of June, 1990, by Judith C. Holinsworth, Mayor, and Rachel A. Mueller, City Clerk, of the City of Humboldt, Kansas.

(Seal)

Nancy M. Peter
Notary Public

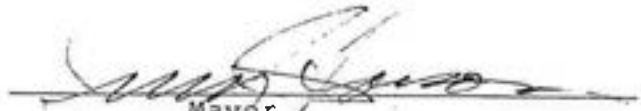
My Commission Expires:
2-9-94



IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF LARNED, KANSAS

(Seal)



Mayor

ATTEST:



City Clerk

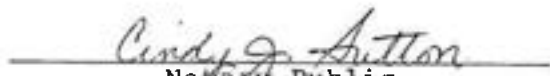
ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF PAWNEE)

This instrument was acknowledged before me on 18th day of June, 1990, by Jerry G. Larson, Mayor, and Vicki Gillett, City Clerk, of the City of Larned, Kansas.

(Seal)





Notary Public

My Commission Expires:

7-30-91

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF NEODESHA, KANSAS

(Seal)

Franklin C. Miller
Mayor

ATTEST:

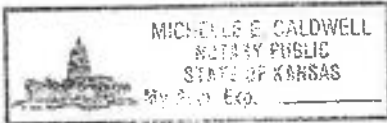
Johanna Becker
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF Sedgewick)

This instrument was acknowledged before me on 31st day of July, 1990, by Franklin C. Miller, Mayor, and Johanna Becker, City Clerk, of the City of Neodesha, Kansas.

(Seal)



Michelle E. Caldwell
Notary Public

My Commission Expires:

March 8, 1993

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF , KANSAS

(Seal)

Larry L. Smith
Mayor

ATTEST:

City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF)

This instrument was acknowledged before me on 5th day of , 1990, by , Mayor, and , City Clerk, of the City of , Kansas.

(Seal)



Notary Public

My Commission Expires:

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF Wamego, KANSAS

(Seal)

David M. Landwehr
Mayor

ATTEST:

[Signature]
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
COUNTY OF Pottawatomie) SS.

This instrument was acknowledged before me on 5 day of July, 1990, by David M. Landwehr, Mayor, and [Signature], City Clerk, of the City of Wamego, Kansas.

(Seal)

Sarah Jane Zoeller
Notary Public-State of Kansas
My Com. expires 8-13-93

[Signature]
Notary Public

My Commission Expires:

August 13, 1993

IN WITNESS WHEREOF, the Members have each executed this Agreement effective as of the date first above written.

CITY OF WINFIELD, KANSAS



Max B. Handlin
Mayor

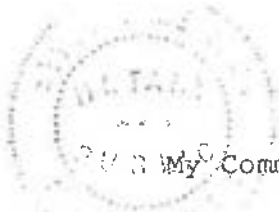
City Clerk

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF COWLEY)

This instrument was acknowledged before me on the 2nd day of July, 1990, by Max B. Handlin, Mayor, and Don Drennan, City Clerk, of the City of Winfield, Kansas.

(Seal)



Betty Jane Lane
Notary Public

My Commission Expires:
September 10, 1993

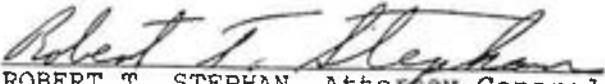
Exhibit A

KANSAS MUNICIPAL GAS AGENCY

| | |
|--------------|-------------|
| Alma | Hoisington |
| Beloit | Humboldt |
| Burlingame | Larned |
| Chanute | Minneapolis |
| Clay Center | Mulvane |
| Coffeyville | Neodesha |
| Garden Plain | Sterling |
| Garnett | Wamego |
| Hesston | Winfield |

APPROVAL OF ATTORNEY GENERAL

The foregoing Interlocal Cooperation Agreement Creating the Kansas Municipal Gas Agency is hereby approved by me on this 1 day of August, 1990, in accordance with K.S.A. 12-2901 et seq.


ROBERT T. STEPHAN, Attorney General
of the State of Kansas

CERTIFICATE OF RECORDING

STATE OF KANSAS)
) ss:
COUNTY OF _____)

The foregoing Interlocal Cooperation Agreement Creating the Kansas Municipal Gas Agency has been filed of record in the Office of the Register of Deeds of _____ County, Kansas, and recorded in Book _____ at Page _____.

WITNESS my hand and official seal on _____, 1990.

(Seal)

Register of Deeds,
_____ County, Kansas

CERTIFICATE OF SECRETARY OF STATE

The foregoing Interlocal Cooperation Agreement Creating the Kansas Municipal Gas Agency, has been filed of record in the Office of the Secretary of State this 1st day of August, 1990.

WITNESS my hand and official seal on August 1, 1990.

(Seal)

KANSAS SECRETARY OF STATE

Bill Graves

By: John Vint

Assistant Secretary of State



FILED
AUG 1 1990
BILL GRAVES
SECRETARY OF STATE

(First published in the Times Sentinel on _____, 20__)

ORDINANCE NO. 783

AN ORDINANCE CONSENTING TO THE MEMBERSHIP OF THE CITY IN THE KANSAS MUNICIPAL GAS AGENCY AND APPROVING AND AUTHORIZING THE FORM OF AND EXECUTION OF AN AGREEMENT CREATING THE KANSAS MUNICIPAL GAS AGENCY AND APPROVING AND AUTHORIZING THE FORM OF THE BYLAWS OF THE KANSAS MUNICIPAL GAS AGENCY.

WHEREAS, K.S.A. 12-2901 et seq. (the “Act”) provides that in order for public agencies to make the most efficient use of their powers, such public agencies may cooperate with other public agencies on a basis of mutual advantage to provide services in a manner that will best accord with economic and other factors influencing the needs and development of such public agencies; and

WHEREAS, Pursuant to the Act, two or more public agencies may enter into an agreement to create a municipal services agency for the purpose of planning, studying and developing supply, transmission and distribution facilities and programs, and for the purpose of securing an adequate, economical and reliable supply of natural gas and transmitting same for distribution through the distribution systems of such public agencies or for the use by other utility systems of such public agencies or to perform any other activities, services or functions permitted by a public agency; and

WHEREAS, certain public agencies have heretofore by agreement (the “Agreement”) created the Kansas Municipal Gas Agency (the “Agency”); and

WHEREAS, THE City of Garden Plain, Kansas (the “City”) is qualified for full membership in the Agency as a public agency which owns and operates a natural gas system, an electric system which utilizes natural gas, a utility which uses natural gas in its operation or any other municipal utility.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDEN PLAIN, KANSAS:

SECTION 1. It is hereby deemed advisable that the City enter into the Agreement to create the Kansas Municipal Gas Agency.

SECTION 2. In order to effectuate the creation of the Agency, the Mayor and City Clerk are hereby authorized to execute the INTERLOCAL COOPERATION AGREEMENT CREATING THE KANSAS MUNICIPAL GAS AGENCY in the form presented to the governing body this date.

SECTION 3. the City hereby approves the form of the Bylaws of the Kansas Municipal Gas Agency presented to the governing body, and consents to and ratifies the adoption thereof by the Board of Directors of the Agency.

SECTION 4. This Ordinance shall be in force and take effect from and after its adoption and publication once in the official newspaper of the city.

ADOPTED by the governing body of the City of Garden Plain, Kansas on December 4, 2024, and **APPROVED** by the Mayor.

Kevin Hammond, Mayor

(Seal)

ATTEST:

Kimberly McCormick, City Clerk

To: Garden Plain City Council

FR: City Staff

RE: **Consider Ordinance 784 – KMGA Acquisition Management Project Participation Agreement**

Background:

As per the previous memo, the City desires to re-engage with the Kansas Municipal Gas Agency (KMGA) for the purpose of purchasing natural gas for the City's natural gas utility system. Ordinance 784 authorizes the City to enter into an Acquisition Management Agreement with KMGA to facilitate this action.

Recommended Action: The City Council is asked to:

1. Adopt Ordinance 784, authorizing the City to enter into an Acquisition Management Project Participation Agreement with KMGA to purchase natural gas for the City's utility.

Attachments:

- A. KMGA Acquisition Management Project Participation Agreement
- B. Ordinance 784

GAS ACQUISITION MANAGEMENT PROJECT
PARTICIPATION AGREEMENT

This Agreement entered into this ____ day of _____, 20____, by and between the Kansas Municipal Gas Agency ("KMGA") and the City of _____:

WITNESSETH:

WHEREAS, pursuant to an Interlocal Cooperation Agreement, certain Kansas municipalities have joined together under the provisions of K.S.A. 12-2901 *et seq.*, to organize and create KMGA; and

WHEREAS, the City owns and operates a municipal natural gas, electric or other municipal utility system that uses natural gas and is a member of KMGA pursuant to the provisions of the interlocal cooperation agreement and the KMGA Bylaws; and

WHEREAS, KMGA has implemented a certain Gas Acquisition Management Project (the "Project") for the purpose of providing an economic means of long-term Natural Gas acquisition and transportation for the mutual benefit of certain members and affiliate members (the "Project Participants"); and

WHEREAS, KMGA will act on behalf of the Project Participants to acquire Natural Gas, effect the transportation and delivery of the acquired Natural Gas to the Project Participants and provide other management services related to the Project; and

WHEREAS, the City desires to participate in the Project and receive the economic benefit in combined Natural Gas acquisition and transportation agreements with other KMGA Members and Affiliate Members; and

WHEREAS, K.S.A. 12-825j authorizes the City to enter into contracts with any person, firm, corporation or other municipality for the acquisition of Natural Gas upon such terms as may be deemed necessary and reasonable by the governing body of the City; provided such contracts shall not exceed a period of forty years and shall not be payable by the levy of any tax.

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

DEFINITIONS

"Agreement" shall mean this Gas Acquisition Project Participation Agreement by and between KMGA and the City.

"Alternative Supplies" shall mean, the sum of (i) all Gas supplied under obligations in contracts entered into by the City prior to the execution of this Agreement, plus (ii) that portion of any Gas supplied under contracts entered into by the City after the execution of this Agreement;

"System" shall mean the natural gas utility system of the City.

"Transporter" shall mean any third-party pipeline used to effect delivery of Project Gas to Project Participants.

"Transportation Contracts" shall mean those contracts with Transporters that provide for transportation and delivery of Project Gas to the Project Participants.

ARTICLE I

PROJECT MANAGEMENT

1.1 KMGAs shall oversee, administer and supervise the overall operation of the Project and shall provide all project management services.

1.2 KMGAs may enter into a Gas Management Agreement that names a Project Manager to assist KMGAs in implementing, managing and administering the purchase, sale and delivery of Project Gas and to assist KMGAs in providing any and all other operational transactions associated with the delivery of Project Gas to Project Participants.

1.3 The City may join with other Project Participants to form a Project Participant Committee, as provided for in Article IX of the KMGAs Bylaws for the purpose of providing input into the activities relating to the Project.

ARTICLE II

GAS PURCHASES

2.1 The City shall purchase its entire Gas requirements from and through the Project for the term of this Agreement, provided that the City may provide for Alternative Supplies. The City shall use reasonable best efforts to reduce or eliminate purchases under any existing contracts. The City shall not enter into any new contracts, extend, exercise an option to extend or otherwise alter its existing contracts that will cause the City's Alternative Supplies to exceed 25% of its total annual Gas supply.

2.2 KMGAs shall provide the City with services relating to the purchase, transportation and sale of Gas, nomination of gas supplies, management of Gas Imbalances and any and all other operational transactions associated with the delivery of Project Gas to the City.

2.3 KMGAs may enter into Gas Purchase Agreements on behalf of the City, provided that KMGAs shall not enter into an agreement that results or potentially results in a take-or-pay obligation of the City without prior written approval of the City.

- (c) Local distribution Gas requirements by Month.
- (d) Electric generation Gas requirements by Month.

4.3 The Project Manager shall assist the City in preparing its nomination hereunder. The City recognizes that such assistance is to recommend only and that the final nomination is the decision of the City.

ARTICLE V

IMBALANCES

5.1 The City, KMGGA and the Project Manager shall be obligated to use their reasonable best efforts to avoid Imbalances and the imposition of any penalties relating thereto.

5.2 If the parties hereto determine that an Imbalance has occurred as a result of a failure on the part of KMGGA or its Project Manager to perform, KMGGA shall assume any liability for such Imbalance and shall pay any penalty charge. If it is determined that the Imbalance is not the result of a failure on the part of KMGGA or its Project Manager to perform, the City shall be responsible for such Imbalance and any resulting penalty charges after Imbalance liquidation as set forth in Section 5.3 hereof.

5.3 Unless otherwise directed by the City, the Project Manager shall act on behalf of the City to use its reasonable best efforts in liquidating any Imbalances. Accordingly, it is understood and agreed that liquidation of such Imbalance is subject to the rules of the Transporter upon whose pipeline the Imbalance exists; and that such Transporter may not permit the liquidation for some period of time, during which the market price of Gas may fluctuate. It is foreseeable, therefore, that the liquidation of an Imbalance may result in a "net loss" or a "net gain" to the City, depending upon the price at which the Imbalance is liquidated. The Project Manager shall not be under any obligation to liquidate Imbalances at a price greater than the market clearing price existing at the time the Imbalance is liquidated.

ARTICLE VI

DELIVERY POINTS AND TITLE

6.1 The City shall designate its Delivery Points which shall be the location described in Exhibit A attached hereto. KMGGA shall provide for Project Gas to be delivered to the designated Delivery Points. Title to the Project Gas shall pass to the City upon delivery at the designated Delivery Points unless otherwise approved by the City.

ARTICLE VIII

DEFAULT AND REMEDIES

8.1 An occurrence of any of the following events or conditions shall constitute an "Event of Default":

- (1) Failure of KMGA or the City to pay any obligations relating to the Project in a timely manner.
- (2) Filing by KMGA or the City of a voluntary petition or any answer seeking a reorganization, arrangement, readjustment of its debts or for any other relief under any applicable bankruptcy law, act or insolvency action, now or hereafter existing.
- (3) Filing of an involuntary petition against KMGA or the City in bankruptcy or seeking reorganization, arrangement or readjustment of its debts or for any other relief under any applicable bankruptcy law, act or insolvency action, now or hereafter existing.
- (4) There exists a default in the observance or performance of any of the covenants, terms or conditions in this Agreement; and such default shall continue for a period of ten (10) days after written notice of the default and surrounding circumstances constituting the default.
- (5) Changes in the constitution of the State, legislative or administrative actions by the United States or agencies thereof, or of the State or any political subdivision thereof, or court proceedings or acts of God which makes this Agreement void, unenforceable or impossible to perform.

8.2 Subject to the other provisions of this Agreement and in addition to any and all remedies available in equity or at law, upon the occurrence of an Event of Default by KMGA, the City, upon payment of all obligations to KMGA, the Project Manager and any third parties to whom an Obligation exists with respect to any natural gas purchased, sold and delivered, may terminate this Agreement in its entirety upon thirty (30) days prior written notice to KMGA.

8.3 Subject to the other provisions of this Agreement and in addition to any and all remedies available in equity or at law, upon the occurrence of an Event of Default by the City, KMGA may demand immediate payment of all obligations to KMGA, the Project Manager and any interested third parties, may terminate this Agreement in its entirety or for specific services that are the subject of the Event of Default upon thirty (30) days prior written notice to the City and/or may suspend further deliveries of Project Gas until such time that the default is cured to the satisfaction of KMGA.

ARTICLE IX

12.2 **Assignment.** This Agreement shall be binding upon and inure to the benefit of the successors, assigns and legal representatives of the parties hereto.

Neither party may assign its rights nor delegate its obligations under this Agreement without the prior written consent of the other party, provided that KMGa may enter into a Gas Management Agreement.

12.3 **Notices.** Except as herein otherwise provided, (specifically including Section 7.3) any notice, request, demand, statement, bill or payment provided for in this Agreement shall be deemed given when deposited in the United States mail, postage prepaid, directed to the post office address of the parties as follows:

To KMGa: Kansas Municipal Gas Agency
6300 West 95th Street
Overland Park, KS 66212-1431
Attention: General Manager

To the City: _____

Attention: City Clerk

12.4 **Books and Records.** Each party shall have the right at all reasonable times to examine the books and records of the other party to the extent necessary to verify the accuracy of any statement, charge, computation or demand made under or pursuant to this Agreement. All invoices and statements shall be deemed to be accurate and final by both parties unless questioned in writing within two (2) years of receipt.

12.5 **Governing Law.** This Agreement shall be governed exclusively by and construed in accordance with the applicable laws of the State of Kansas.

12.6 **Integration.** This Agreement contains the entire Agreement between the parties hereto, and no waiver, modification or other changes shall be effective unless in writing and executed by the parties.

EXHIBIT A

DELIVERY POINTS

(First published in the Times Sentinel on _____, 20____)

ORDINANCE NO. 784

AN ORDINANCE AUTHORIZING THE EXECUTION OF A GAS ACQUISITION MANAGEMENT PROJECT PARTICIPATION AGREEMENT WITH THE KANSAS MUNICIPAL GAS AGENCY AND ALL NECESSARY DOCUMENTS WITH RESPECT THERETO AND PROVIDING FOR THE PLEDGE OF THE REVENUES OF THE NATURAL GAS/ELECTRIC UTILITY SYSTEM OF THE CITY TO SECURE SUCH AGREEMENT.

WHEREAS, pursuant to an Interlocal Cooperation Agreement, certain Kansas Municipalities, including the City of Garden Plain, Kansas (the “City”), have joined together under the provisions of K.S.A. 12-2901 et seq. (the “Act”), to organize and create the Kansas Municipal Gas Agency (“KMGA”); and

WHEREAS, KMGA has implemented a certain Gas Acquisition Management Project (the “Project”) for the purpose of providing an economic means of long-term natural gas acquisition and transportation for the mutual benefit of certain members and AFFILIATE MEMBERS PARTICIPATING IN THE Project (the “Project Participants”); and

WHEREAS, KMGA will act on behalf of the Project Participants to acquire natural gas, effect the transportation and delivery of the acquired natural gas to the project Participants and provide other management services related to the Project; and

WHEREAS, the City owns and operates a natural gas, electric, or other municipal utility system which utilizes natural gas in its operation; and

WHEREAS, the City desires to participate in the Project and receive the economic benefit in combined natural gas acquisition and transportation agreements with other KMGA Members and Affiliate Members; and

WHEREAS, K.S.A. 12-825j authorizes the City to enter into contracts with any person, firm, corporation, and other municipality for the acquisition of natural gas upon such terms as may be deemed necessary and reasonable by the governing body of the City; provided such contracts shall not exceed a period of forty years and shall not be payable by the levy of any tax.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDEN PLAIN, KANSAS:

SECTION 1. It is hereby deemed advisable and in the best interest of the City that the City may participate in the Project and authorize KMGA to act on behalf of the City in providing all project management services relating to the Project for the purpose of having the City receive an economic benefit in combined natural gas acquisitions with other Project Participants.

SECTION 2. The Mayor and City Clerk are hereby authorized to execute the Gas Acquisition Management Project Participation Agreement on behalf of the City (the “Participation Agreement”) substantially in the form presented to the governing body this date.

SECTION 3. The revenues of the natural gas utility system of the city (the “System”), necessary to fulfill its obligations herein, are hereby pledged for the repayment of the obligations of the City under the Participation Agreement.

SECTION 4. The city agrees to fix, establish, maintain, and collect such rates, fees, and charges for the use and services furnished by or through the System, as will produce revenues sufficient to enable the city to have reasonable and adequate funds available for this proportionate and allocable share of costs associated with the Project as set forth in the Participation Agreement.

SECTION 5. The City Clerk and other officials of the City are hereby further authorized and directed to execute any and all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Ordinance.

SECTION 6. This Ordinance shall be in force and take effect from and after its adoption and publication once in the official newspaper of the City.

ADOPTED by the governing body of the City of Garden Plain, Kansas on December 4, 2024.

Kevin Hammond, Mayor

(Seal)
ATTEST:

Kimberly McCormick, City Clerk

To: Garden Plain City Council
FR: City Staff
RE: **Consider a Technical Service Agreement with Black Hills Energy**

Background:

The City proposes entering into a Technical Service Agreement (TSA) with Black Hills Energy (BHE) to provide for 24/7/365 distribution, maintenance, and operation of the City's natural gas utility system. As part of the agreement, BHE staff will be available 24 hours a day, 7 days per week, to answer customer support calls and address any concerns, requests for services, repairs, leak checks, emergency leak response, line checks, etc. by certified BHE staff members. Having this professional support of a large, local, and well-established company will help the city during a time when we are between professionally trained staff.

Financial Implications: For the first year, the cost of the contract is \$58,555.56 payable to BHE on an average monthly basis equal to \$4,879.63. Commencing during the 2nd year of the agreement, the annual rate will increase 3% per year and invoiced by BHE on an average monthly basis. The city anticipates hiring another employee(s) that are either certified to operate the system, or can be trained to do so, in the near future.

Recommended Action: The City Council is asked to:

1. Approve the Technical Services Agreement with Black Hills Energy.

Attachments:

- A. Black Hills Energy Technical Services Agreement



TECHNICAL SERVICES AGREEMENT

Dated

11/8/2024

Between

Black Hills/Kansas Gas Utility Company, LLC
D/B/A Black Hills Energy

&

City of Garden Plain, Ks.

TECHNICAL SERVICES AGREEMENT

THIS AGREEMENT, made and entered into this 11th day of November , by and between Black Hills/Kansas Gas Utility Company LLC d/b/a Black Hills Energy, a Kansas limited liability company (“BHE”) and The City of Garden Plain “Customer”).

WITNESSETH THAT:

WHEREAS, Customer has the need for certain technical services set forth on Exhibit A attached hereto (collectively, the “Services”), and BHE has the requisite personnel and experience to perform the Services; and

WHEREAS Customer desires to engage BHE to perform the Services and BHE desires to provide to Customer the Services, pursuant to the terms, conditions and provisions of this Agreement.

NOW THEREFORE, in consideration of the mutual covenants expressed herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledge, the parties agree as follows:

ARTICLE I **Performance of the Services**

BHE will provide to Customer the Services in accordance with the parameters the parties agree to from time to time. Notwithstanding the foregoing, BHE will not be required to provide any Service to the extent the provision thereof (i) becomes impracticable, in any material respect, as a result of one or more causes outside of BHE reasonable control (including, without limitation, any labor dispute or force majeure event), (ii) would require BHE to violate any law, order or other binding commitment or obligation of BHE to any governmental entity, or (iii) would, in BHE’s sole judgment acting in good faith, violate prudent safety procedures.

BHE shall not be responsible for the acts or omissions of the Customer, contractor, subcontractor or supplier, or of any of Customer’s agents or employees or any other person’s (except BHE’s own employees or contractors) furnishing or performing any work or services, the conditions of any of Customer’s properties and/or facilities or for any decisions or interpretations of Customer regarding Customer’s properties and/or facilities.

ARTICLE II **Term & Termination**

A. Term. Subject to the termination provisions of paragraph (B) below, this Agreement is effective as of the date hereof and will continue in full force and effect for a period of one (1) year (the “Original Term”). After the expiration of the Original Term, this Agreement will be automatically renewed for successive terms of one (1) year each (each, a “Renewal Term”).

B. **Termination.** Either party may terminate this Agreement upon thirty (30) days prior notice. In addition, BHE may terminate this Agreement upon twenty-four (24) hours prior notice in the event a dispute arises between the parties concerning the potential risk to the public safety that could reasonably be expected to result from any action or inaction in providing any Service or, in the sole discretion of BHE, Customer's property and/or facilities are unsafe. If any such termination relates to less than all of the Services, then BHE will continue to be obligated to provide the remaining Services in accordance with the terms and conditions contained in this Agreement.

C. **Effect of Termination.** Upon the termination of this Agreement or BHE's obligation to provide any of the Services, the parties' obligations with respect to the terminated Services will cease; provided, however, that notwithstanding such termination (i) Customer will remain liable to BHE for all amounts payable in respect of the terminated Services provided prior to the date of termination, and (ii) the provisions of Articles II, IV, VI, VII, VIII, and IX of this Agreement will survive such termination.

ARTICLE III

Fees, Billing, and Payment

In consideration of the performance of the Services, Customer will pay BHE the amounts described on, and in the manners set forth on, on Exhibit A attached hereto. BHE will submit invoices to Customer on a monthly basis or upon completion of Services, as applicable, and payment is due 30 days after receipt by Customer (each, a "Payment Due Date"). In the event Customer fails to timely pay an invoice in full on the applicable Payment Due Date, interest on the unpaid amount will accrue at the rate of 2% per month from the applicable Payment Due Date until the actual date of payment. Payments received from Customer will be credited first to any accrued interest, and then to outstanding invoices, satisfying each invoice in full in the chronological order issued by BHE. In addition, if Customer fails to pay an invoice within the 15-day period immediately following the applicable Payment Due Date, then BHE may after notifying Customer exercise any other remedy available to BHE (including, without limitation, refusing to provide additional Services until such amount, including interest, is paid in full).

ARTICLE IV

Relationship of the Parties

The relationship of BHE to Customer under this Agreement is that of an independent contractor, and BHE will not be deemed to be an employee, partner, or agent of Customer in connection with the provision of the Services by BHE. BHE will be solely responsible for the payment of any employment-related costs, taxes or benefits in respect of the provision of the Services.

ARTICLE V

Cooperation, Information and Access

The parties will cooperate in good faith in all matters related to the provision and receipt of the Services. Without limiting the foregoing, Customer will provide BHE, in a timely manner, all information and access to facilities required or reasonably requested by BHE in connection with providing the Services. BHE will exercise such rights of access so as to avoid

or minimize surface and subsurface damages where and when reasonably practicable.

ARTICLE VI
Proprietary Information

Any drawings, documentation, specifications, prints, designs, ideas or other information provided by either party to the other party or otherwise obtained by either party pertaining to the Services performed hereunder are strictly confidential and proprietary to BHE and Customer. Neither party will, without the prior written consent of the other party (which may not be unreasonably withheld), disclose any such information to a third party or use any such information for its own benefit except in connection with the provision of Services pursuant to this Agreement.

ARTICLE VII
Indemnification; Consequential Damages

A. **Indemnification by BHE.** BHE will indemnify and hold harmless Customer and its directors, officers, employees and agents from and against any and all claims, liabilities, losses, costs, damages, injuries or expenses (including court costs and reasonable attorney's fees) by reason of any accident, personal injury, death, or damage to real or personal property brought by any person, association, or corporation, but only to the extent such accident, personal injury, death, or damage to real or personal property is directly caused by the negligence or willful misconduct of BHE in providing the Services under this Agreement.

B. **Indemnification by Customer.** Customer will indemnify and hold harmless BHE and its directors, officers, employees and agents from and against any and all claims, liabilities, losses, costs, damages, injuries or expenses (including court costs and reasonable attorney's fees) by reason of any accident, personal injury, death, or damage to property brought by any person, association, or corporation including but not limited to recipients of service from Customer, to the extent such accident, personal injury, death, or damage to property is not directly caused by the negligence or willful misconduct of BHE in providing the Services under this Agreement. Further, BHE is not responsible or liable for the condition of Customer's properties and/or facilities and Customer shall indemnify, defend and hold BHE harmless from any and all actions regarding the condition of Customer's properties and/or facilities brought by any person, association, or corporation including but not limited to recipients of service from Customer.

C. **Consequential Damages.** In no event will either party be liable to the other party for any special, incidental, indirect, punitive or consequential damages (including, without limitation, lost profits, business interruption, or loss of product, data or use) arising from BHE's performance of, or related to, the Services or this Agreement.

ARTICLE VIII
Disclaimer of Warranties

BHE MAKES NO REPRESENTATIONS, COVENANTS, WARRANTIES, OR GUARANTEES, (EXPRESS, IMPLIED, STATUTORY, OR OTHER) OTHER THAN THOSE SPECIFICALLY SET FORTH HEREIN, IF ANY, INCLUDING BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A

PARTICULAR PURPOSE, WITH RESPECT TO THE SERVICES OR OTHER DELIVERABLES TO BE PROVIDED HEREUNDER. Without limiting the foregoing, no implied warranty arising by usage of trade, course of dealing or course of performance is given by BHE to Customer or will arise by or in connection with this Agreement or the parties conduct in relation hereto or to each other.

ARTICLE IX
Miscellaneous

A. **Assignment.** This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder may be assigned by either party, in whole or in part, without the prior written consent of the other party (such consent not to be unreasonably withheld). Notwithstanding the foregoing, BHE may without Customer's consent (i) engage one or more subcontractors to perform Services, and (ii) assign this Agreement to any person that acquires, by merger, purchase or otherwise, all or substantially all of BHE's natural gas operations in the State of Kansas.

B. **Notice.** All notices pertaining to this Agreement will be made in writing and sent by registered mail or facsimile to the following addresses, as may be changed from time to time by notifying the other party in accordance with this paragraph:

If to Black Hills Energy:
Black Hills Energy
2330 N Hoover
Wichita Ks 67205
Attn: Wade Hopper

If to Customer:
City of Garden Plain
PO box 336
Garden Plain Ks, 67050

C. **Governing Law.** This Agreement will be construed and enforced in accordance with the laws of the State of Kansas, and each party hereby expressly consents to the jurisdiction of the courts of the State of Kansas.

D. **Waiver of Compliance.** No waiver by any party of any default or breach by the other in performance of this Agreement will operate or be construed as a waiver of any other or future breach or default, whether of a like or a different character.

E. **Entire Agreement; Amendment.** This Agreement will be a valid and binding agreement of the parties only if and when it is fully executed and delivered by the parties. This Agreement, together with **Exhibit A** attached hereto (which is incorporated herein by this reference), (i) embodies the entire agreement and understanding of the parties as to the subject matter of this Agreement, and (ii) supersedes all prior agreements and understandings between the parties with respect to the Services. No amendment of, or modification to, this Agreement will be effective unless in writing and signed by each of the parties.

F. **Property and Procedural Rights.** Any and all computer programs, licenses, documentation, procedures and instructions used in providing the Services are and will remain the sole property of BHE. Customer will have no rights whatsoever to such property.

G. No Third Party Beneficiaries. This Agreement gives no rights or benefits to anyone other than Customer and BHE and has no third party beneficiaries.

H. Severability and Reformation. If any term or provision of this Agreement is held by any court to be illegal or unenforceable, the remaining terms, provisions, rights, and obligations shall not be affected and shall remain in full force and effect. Further, to the extent permitted by applicable Law, any such term or provision will be restricted in applicability or reformed to the minimum extent required so that such term or provision may be enforceable

I. Delivery. This Agreement may be executed in multiple counterparts (each of which will be deemed an original, but all of which together will constitute one and the same instrument), and may be delivered by facsimile transmission, with originals to follow by overnight courier or certified mail.

* * * * *

*[Remainder of Page Intentionally Left Blank;
Signature Page Follows Immediately Hereafter]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers as of the day and year first above written.

Black Hills/Kansas Gas Utility Company, LLC
d/b/a Black Hills Energy

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

DRAFT

Technical Services Agreement
Exhibit A

| SERVICES | FEES |
|---|---|
| <p>Facilities Covered:</p> <ul style="list-style-type: none"> • Customer owned natural gas facilities located in Garden Plain, KS. <p>Scope of Service(s):</p> <ul style="list-style-type: none"> • Provide Operations and Maintenance Services as specified below: <ol style="list-style-type: none"> 1. Audits – At Customer’s request, BHE will represent Customer during Kansas Corporation Commission’s (KCC) inspection of Customer’s distribution system or, in the alternative, conduct an annual internal audit of Customer’s pipeline system. 2. Distribution Integrity Management Program – Perform requirements of a distribution integrity management program utilizing the SHRIMP program. These services include but are not limited to a review and modification of the program as required by KCC/PHMSA, annual assessment of the program, and assisting the customer in the filing of Federal and State reporting required under these sections. Customer to maintain required membership in the SHRIMP program. 3. Reporting – Assist customer with annual KCC/PHMSA reporting. 4. Availability – BHE will be available for questions from Customer 24 hours a day, 7 days a week, and provide appropriate documentation of all work performed. 5. Cathodic Protection – Perform annual monitoring on pipeline, including atmospheric corrosion monitoring on above ground piping, to determine compliance with state and federal requirements to prevent external corrosion. Any corrective actions necessary will be recommended to Customer within 30 days of the completion of the annual monitoring on any materially significant deficiencies. However, BHE is under no obligation to make any repairs or to bring customer into compliance with any laws or regulations. 6. Emergency leak response – BHE will provide 24/7/365 emergency response service when leaks occur on Customer’s natural gas facilities. 7. Leak Survey – Conduct an annual leak survey on the Customer’s pipelines to meet current federal and Kansas Pipeline Safety Regulations. Leak survey will be performed using approved and calibrated detection equipment. All leaks will be classified in accordance with the BHE approved procedures. BHE will notify Customer of discovery of any leaks and will provide a recommended plan of action. BHE is under no obligation to make any repairs or to ensure compliance with any laws or regulation. | <p>\$58,555.56 per year for the first year payable by Customer as invoiced by BHE on an average monthly basis equal to \$4,879.63 subject to the terms and conditions of Article III of this Agreement.</p> <p>Commencing on the 2nd anniversary of the Agreement, the annual rate will increase 3% per year payable by customer as invoiced by BHE on an average monthly basis.</p> |

8. **Patrolling** – Perform casing, highway, railroad, and river crossing patrols quarterly. Perform patrols in business district bi-annually.
9. **Valve Maintenance** – Perform annual inspection on all valves, including operation and greasing as needed.
10. **Odorization** –Conduct monthly odorometer testing and check odorant level in odorizer. Fill odorizer as needed. Actual odorant installed will be considered a material and billed as outlined below.
11. **Procedure Manuals** – Customer may utilize BHE operations Maintenance, and Emergency Procedures Manuals.
12. **Damage Prevention/Line Locating** – Perform up to 15 gas line locates per month as requested by customer on locatable lines. Locates in excess of 15 per month, customer will be charged \$200.00 per locates. BHE will locate non-locatable lines by digging to uncover said lines at the hourly rates referenced below. Customer to maintain membership in Kansas One call notification system.
13. **Service Calls** – BHE will perform customer connects, light up's, disconnects, reconnects and general gas service orders received from Customers or its residents. Service or trouble orders may be directly communicated to BHE customer service center to have an order generated.
14. **Public Awareness** – Establish a continuing educational program on behalf of Customer to enable customers, the public, appropriate government organizations, and persons engaged in excavation related activities to recognize a gas pipeline emergency for the purpose of reporting it to the operator of the appropriate public officials. These services include but are not limited to review and modification of the program as required by PHMSA, creating a brochure addressing those requirements with Customer's contact information, identifying impacted property owners, excavators and contractors, mailing said brochure to the identified parties.
15. **Measurement & Pressure** – Perform annual District Regulator inspection and testing annually.
 - Meters will continue to be read and billed by the City of Garden Plain.

Additional Items: Any services/materials beyond specified above will incur charges as set forth below:

1. Materials will be billed at cost plus 20%.
2. Hourly rates for repair/service/construction services and other work vary and may be changed by Company from time to time. The applicable rates will be identified for specific projects and are available to Customer upon request.