

**ORDINANCE NO. 1775**

**AN ORDINANCE OF THE CITY OF NEODESHA, KANSAS, AUTHORIZING THE EXECUTION OF A GENERATING CAPACITY CONTRACT, BETWEEN THE CITY OF NEODESHA, KANSAS, AND THE KANSAS MUNICIPAL ENERGY AGENCY RELATING TO THE ACQUISITION OF CERTAIN GENERATION FACILITIES AND MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

**WHEREAS**, the Kansas Municipal Energy Agency (“KMEA”) is a municipal energy agency organized and existing under the laws of the State of Kansas, including K.S.A. 12-885 *et seq.*; and

**WHEREAS**, the City of Neodesha, Kansas (the “City”) owns or operates a utility furnishing electricity (the “System”) and the City is a member in good standing of KMEA; and

**WHEREAS**, in order to secure an additional source of energy and capacity to meet the City’s load requirement, KMEA intends to acquire four (4) enclosed Caterpillar CI 75-16 Tier 4 Final diesel generator sets, including any related software (embedded therein or otherwise) and any and all related general intangibles, replacements, repairs, additions, attachments, accessories and accessions for installation at the City (the “Project”); and

**WHEREAS**, the governing body of the City has directed KMEA to pursue financing options in order to obtain funding for the Project; and

**WHEREAS**, KMEA has identified certain financing alternative structures pursuant to which KMEA will issue its revenue bonds or enter into a lease purchase agreement in order to obtain funds acquire, equip and install the Project (such financing arrangements are collectively referred to as the “Bonds”); and

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

**WHEREAS**, the City desires to enter into a Generating Capacity Contract with KMEA relating to the City's purchase of electricity generated in connection with the operation of the Project (the “Power Contract”), which payments made pursuant to the Power Contract shall be sufficient to: (a) provide for the operation of the Project, including establishing any necessary reserves; and (b) make all payments on the Bonds, including associated financing costs; and

**WHEREAS**, the City owns the real property upon with the Project will be located (the “Real Property”) and desires to enter into a Site Lease (the “Site Lease”) of the Real Property to KMEA for the installation and operation of the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF NEODESHA, KANSAS:**

**Section 1. Authorization of Power Contract and Site Lease.** The Power Contract and Site Lease are hereby approved in substantially the form presented to the governing body this date with such changes and modifications as may be necessary to conform the Power Contract to the final terms of the financing documents relating to the Project and the Bonds. Upon the receipt of suitable financial terms relating to

the Bonds as determined by the Mayor, and upon the recommendation of KMEA, the Mayor is authorized to execute the Power Contract. The Mayor and Clerk are also authorized and directed to execute any and all other documents or certificates necessary to affect the purposes set forth in this Ordinance, the Power Contract and the Site Lease.

**Section 2. Pledge of Revenues; Obligation to Make Payments.** Subject to the satisfaction of the conditions set forth herein, the governing body of the City hereby pledges the gross revenues (the “Revenues”) of the System to the City's payment obligations under the Power Contract. The payments by the City for Electricity, as such term is defined in the Power Contract, shall constitute operating expenses of the System. The obligation of the City to make payments to KMEA under the Power Contract, whether or not reduced to judgment, shall not constitute general obligations of the City, and the City shall not be required to make such payments from any source other than the Revenues of the System.

**Section 3. Rate Covenant.** The City will fix, establish, maintain and collect such rates, fees and charges for the use and services furnished by or through the System, including all repairs, alterations, extensions, reconstructions, enlargements or improvements thereto hereafter constructed or acquired by the City, as will produce Revenues sufficient to pay all operating expenses of the System, including the obligation to make the payments required by the Power Contract and provide reasonable and adequate reserves for the general protection and benefit of the System.

**Section 4. Effective Date.** This Ordinance shall take effect and be in full force from and after its adoption by the governing body of the City.

**PASSED** by the governing body of the City and signed by the Mayor this 4th day of January, 2023.

(SEAL)

/s/ Devin Johnson

Mayor

ATTEST:

/s/ Stephanie Fyfe

City Clerk

**CERTIFICATE**

I hereby certify that the foregoing is a true and correct copy of the original ordinance; that said Ordinance was passed on January 4, 2023; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; and that the Ordinance or a summary thereof was published in *The Neodesha Derrick News* on January 12, 2023.

DATED: January 4, 2023.

/s/ Stephanie Fyfe

\_\_\_\_\_  
City Clerk

[BALANCE OF THIS PAGE INTENTIONALLY LEFT BLANK]

(Published in *The Neodesha Derrick News* on January 12, 2023)

### SUMMARY OF ORDINANCE NO. 1775

On January 4, 2023, the governing body of the City of Neodesha, Kansas passed an ordinance entitled:

**AN ORDINANCE OF THE CITY OF NEODESHA, KANSAS, AUTHORIZING THE EXECUTION OF A GENERATING CAPACITY CONTRACT, BETWEEN THE CITY OF NEODESHA, KANSAS, AND THE KANSAS MUNICIPAL ENERGY AGENCY RELATING TO THE ACQUISITION OF CERTAIN GENERATION FACILITIES AND MAKING CERTAIN COVENANTS AND AGREEMENTS TO PROVIDE FOR THE PAYMENT AND SECURITY THEREOF AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH.**

The documents approved in the Ordinance relate to the development, installation and operation of four (4) enclosed Caterpillar Cl 75-16 Tier 4 Final diesel generator sets, including any related software (embedded therein or otherwise) and any and all related general intangibles, replacements, repairs, additions, attachments, accessories and accessions. A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, City Hall, 1407 N 8<sup>th</sup> Street, P.O. Box 336, Neodesha, Kansas, 66757. A reproduction of the Ordinance is available for not less than 7 days following the publication date of this Summary at <http://neodesha.org/>.

This Summary is hereby certified to be legally accurate and sufficient pursuant to the laws of the State of Kansas.

DATED: January 4, 2023.

/s/ Douglas D Depew

City Attorney