ORDINANCE NO. 925

AN ORDINANCE AUTHORIZING EXECUTION OF THE NATURAL GAS PREPAY PARTICIPATION AGREEMENT WITH THE KANSAS MUNICIPAL GAS AGENCY AND ALL OTHER NECESSARY DOCUMENTS WITH RESPECT THERETO AND PROVIDING FOR THE PLEDGE OF THE REVENUES OF THE NATURAL GAS UTILITY SYSTEM OF THE CITY TO SECURE SUCH AGREEMENT.

WHEREAS, pursuant to an Interlocal Cooperation Agreement, certain Kansas Municipalities 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 created a Natural Gas Prepay project (the "Project") for the purpose of providing an economic means of a long-term natural gas acquisition for the mutual benefit of its members participating in the Project (the "Project Participants"); and

WHEREAS, the City of Cheney, Kansas (the "City") is a member of KMGA and the City desires to participate in the Project and receive the economic benefit associated with the Project; and

WHEREAS, KMGA will act on behalf of the Project Participants to enter into a Natural Gas Supply Agreement with the Minnesota Municipal Gas Agency; and

WHEREAS, the City and KMGA will enter into a Natural Gas Prepay Participation Agreement to effect the delivery of natural gas to the Project Participants and provide management services related to the Project; 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.

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

SECTION 1. It is hereby deemed advisable and in the best interest of the City that the City participate in the Project.

SECTION 2. The Mayor and City Clerk are hereby authorized to execute the Natural Gas Prepay 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") 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 its 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 Cheney, Kansas, on Nov 14, 2019.

(Seal)

CITY CLERK

ATTEST:

City Clerk

Mayor
EXEMPLARY MINUTES OF A MEETING
OF THE GOVERNING BODY OF
CHENEY, KANSAS
HELD ON NOV. 14, 2019

The governing body of the City of Cheney, Kansas, met in regular session at the usual meeting place in the City, at 7 p.m., the following members being present and participating, to-wit:

Absent:

The Mayor declared that a quorum was present and called the meeting to order.

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(Other Proceedings)

Thereupon there was presented an Ordinance entitled:

AN ORDINANCE AUTHORIZING EXECUTION OF THE NATURAL GAS PREPAY PARTICIPATION AGREEMENT WITH THE KANSAS MUNICIPAL GAS AGENCY AND ALL OTHER NECESSARY DOCUMENTS WITH RESPECT THERETO AND PROVIDING FOR THE PLEDGE OF THE REVENUES OF THE NATURAL GAS UTILITY SYSTEM OF THE CITY TO SECURE SUCH AGREEMENT.

Thereupon GREG WILLIAMS moved that said Ordinance be passed. The motion was seconded by JEFF ALBERS. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Aye: ALBERS, GILE, KAMPLING, MIZE, WILLIAMS

Nay: NONE

Thereupon, it was declared that said Ordinance was duly passed and the Ordinance was then duly numbered Ordinance No. 925 and was signed and approved by the Mayor and attested by the Clerk.

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(Other Proceedings)

Upon motion, duly made, seconded and carried, the meeting thereupon adjourned.

[Signature]
City Clerk
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.

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

To KMGA:

Kansas Municipal Gas Agency
6300 West 95th Street
Overland Park, KS 66212-1431
Attention: General Manager
E-mail: mahberg@kmea.com
Phone: 913-660-0234

To the City:

CITY OF CHENEY
131 N MAIN STREET, PO BOX 1
CHENEY KS 67025
ATTENTION: ADMINISTRATOR
dyoung@cheneys.org
316–542–3622

12.4 Confidentiality. The parties agree that they and each of their agents, employees, contractors and other parties acquiring information about the Project or the Project Gas prices, quantity or quality shall hold such information in confidence, except to the extent such information must be disclosed to a third party as required by law or to effect delivery of Gas. The Parties recognize that any confidentiality restrictions hereunder must be consistent with applicable Kansas laws on open records and open meetings.

12.5 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.

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

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

12.8 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.
IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first written above.

KANSAS MUNICIPAL GAS AGENCY

By: ____________________________
    General Manager

THE CITY OF CHENEY, KANSAS

By: ____________________________
    Mayor

Attest:

By: ____________________________
    City Clerk