

CITY OF LINCOLN
SPECIAL VOTING SESSION MEETING
AGENDA
DECEMBER 27, 2022
IMMEDIATELY FOLLOWING THE COMMITTEE OF THE WHOLE

1. **Call to Order**
2. **Roll Call**
3. **Public Participation**
4. **New Business/Communications**
Approval of the Second Amendment to the Power Purchase Agreement and Easement Agreement between the City of Lincoln and Keystone Power Holdings, LLC
5. **Announcements**
6. **Possible Executive Session**
7. **Adjournment**

We welcome the participation of persons with disabilities at all City of Lincoln meetings. If auxiliary aid or service is required for most effective participation and communication, please notify the City Clerk's Office at 217-735-2815 or cityclerk@lincolnil.gov no later than 48 hours prior to the meeting time.

PREPARED BY AND
WHEN RECORDED RETURN TO:

KPH IL16, LLC
Attn: William R. DePhillipo
12 Paoli Pike, Suite #5
Paoli, PA 19301

(Space above this line for Recorder's use only)

Easement Agreement

This Easement Agreement (the "**Agreement**") is made this ____ day of _____, 202_ ("**Effective Date**"), by and between The City of Lincoln, Illinois ("**Grantor**"), and KPH IL 16, LLC, a Pennsylvania limited liability company, having an office at 12 Paoli Pike, Suite 5, Paoli, PA 19301 ("**Grantee**").

RECITALS

A. Grantor is the owner of those certain parcels or tracts of land located in Logan County, Illinois, with parcel numbers 12-036-070-00, 12-036-062-00, and 12-036-062-40, and more particularly described on Attachment A hereto (the "**Grantor Property**").

B. Grantor and Grantee entered into a certain Solar Power Purchase Agreement, which the parties amended by a First Amendment and Second Amendment (together, the "**Solar Agreement**") pursuant to which Grantee has agreed to design, construct, install, operate and maintain a certain solar voltaic system on a portion of the Grantor Property (the "**Premises**") for the purpose of providing electricity to portions of the City of Lincoln sewage treatment plant located on the Grantor Property.

C. Grantor desires to grant to Grantee the rights described herein for the purposes of designing, installing, operating, maintaining and removing the System on and from the Premises.

AGREEMENT

In consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows.

1. Grant of Easements.

a. System on Premises. Grantor grants and conveys to Grantee an easement across, over, under and above the Grantor Property to construct an approximately 1,600 to 2,400 kW DC ground-mounted solar photovoltaic electric energy generation facility (the "**System**") on the Premises at Grantee's sole expense. Grantee's rights to use the Premises shall be exclusive. A legal description of the Premises is attached hereto and incorporated herein as Attachment B. Grantor grants to Grantee the right, but not the obligation, to survey the Premises at Grantee's cost, and the legal description of the Premises, including any access or utility easements, provided in the survey shall then become Attachment B-1, which shall be attached hereto and made a part hereof and which will become the legal description of the Premises. In the event of any discrepancy between the description of the property contained herein and the survey, the survey shall control. The System

shall consist of racking and foundations; inverters and transformers; batteries if required or necessary, necessary electrical interconnections and all improvements and connections required to transfer and deliver generation offsite, including three (3) phase extensions and power box(es); a 100 to 300 square-foot pad or structure to house electrical and maintenance equipment (“**PV Box**”); security fencing and gating, with cameras, enclosing the Premises; safety signage and solar photo voltaic (“**PV**”) panels; and such other equipment, facilities and improvements Grantee deems necessary or useful in connection with the System (collectively the “**Site Improvements and Infrastructure**”). For any new construction on the Premises, such construction shall be designed and built to the minimum standards for any county, state and federal codes and requirements in effect at the time of construction, including without limitation, the applicable building and fire codes. Grantee shall have the right to place one or more signs advertising the System provided that, prior to putting up any such signage, Grantee has obtained all required sign permits from the local governing authority. Grantee shall have the right to take such actions and to construct such improvements as are necessary to comply with any requirements imposed by the County with respect to the System, including but not limited to the right to construct and maintain a fence around the System for the duration of the Agreement. Grantor agrees to execute any easement agreement required by the local utility for interconnection in the form required by the utility.

b. Ingress, Egress, Utility and Solar Easement. The rights granted to Grantee in this Agreement include, without limitation the following easements and related rights:

(i) the exclusive right to erect, construct, reconstruct, replace, relocate, remove, operate, maintain and use the following from time to time, on, under, over and across the Grantor Property, including under South Lake Road (as shown in the diagram in Section 2 of the Second Amendment to the Solar Purchase Power Agreement between Grantor and Grantee), in connection with System: (a) a line or lines of towers, with such wires and cables as from time to time are suspended therefrom, and/or underground wires and cables, for the transmission of electrical energy and/or for communication purposes, and all necessary and proper foundations, footings, crossarms and other appliances, equipment, facilities and fixtures for use in connection with said towers, wires and cables (collectively “**Transmission Facilities**”); (b) facilities to be installed on the Premises consisting of one or more substations for electrical collection, to step up the voltage, interconnect to transmission line or lines, and meter electricity, together with the right to perform all other ancillary activities normally associated with such a facility as may be necessary or appropriate to service System, regardless where located (collectively “**Interconnection Facilities**”, which, with the Transmission Facilities and improvements installed in connection with the System, collectively constitute the “**Solar Improvements**”); and (c) with all necessary easements therefor;

(ii) an easement and right on, over and across the Grantor Property for any audio, visual, view, light, shadow, noise, vibration, electromagnetic or other effect of any kind or nature whatsoever resulting, directly or indirectly, from the System, including but not limited to rights to cast shadows and reflect glare onto all of Grantor’s property including any adjoining property, from the System and/or any and all other related facilities, wherever located;

(iii) an exclusive easement and right to capture, use and convert sunlight and related solar resources on an unobstructed basis over and across the Grantor Property; any obstruction to the receipt of and access to sunlight throughout the entire area of the Premises is prohibited;

(iv) an access easement on, over and across the Grantor Property, including South Lake Road, for ingress and egress to the Premises, to and from a public road, and a construction and utility easement over the Grantor Property for construction and maintenance of the Solar Improvements;

(v) a non-exclusive right of access for ingress and egress on, over, and across the Grantor Property, including South Lake Road, for the installation, operation, maintenance, repair, replacement and removal of Transmission Facilities and Interconnection Facilities across, over or under the Grantor Property; and

(vi) the right to undertake for any such purposes other activities, whether accomplished by Grantee or a third party authorized by Grantee, that Grantee determines are necessary, useful or appropriate to accomplish any of the purposes or uses set forth in this Agreement or that are compatible with such purposes or uses.

c. Easements in Gross. The parties expressly intend for all easement rights herein to be, and for this Agreement to create, **EASEMENTS IN GROSS** in Grantee, its successors and assigns, personal to and for the benefit of Grantee, its successors and assigns, as owner of such easements, and neither such easements nor this Agreement shall be appurtenant to any other property or interest. The parties expressly agree that such easement rights shall be transferable in accordance with the assignment provisions of this Agreement. If Grantor conveys the Grantor Property, or any portion thereof, during the Term, any granting document, including the deed, shall convey the Grantor Property expressly subject to the existence and effectiveness of the easements contained herein.

2. The Term. The primary term shall be for twenty five (25) years commencing on the Effective Date (the “**Initial Term**”). Grantee shall have the option and right to elect to extend this Agreement for up to three (3) five (5) year extensions (each such extension referred to as an “**Additional Term**”, or collectively as the “**Additional Terms**”). Grantee shall give Grantor written notice of its election to extend the Agreement on or before the commencement of the twenty fifth (25th) year (which is the last year) of the Primary Term, or the end of the then-current Additional Term, whichever is later. An additional decommissioning term shall commence upon expiration of the Primary Term, or expiration of the last Additional Term, whichever is later, or the earlier termination of this Agreement, to allow for Grantee’s decommissioning and removal of the System, which shall last no longer than six (6) months, unless extended per mutual written agreement of Grantee and Grantor.

3. Consideration. The consideration for the Grantor’s grant of the easement rights granted herein includes the right and ability of Grantee to construct and operate the System and enabling of Grantee’s performance of its obligations under the Solar Agreement.

4. Grantor Reserved Rights. Grantor reserves the right to use or authorize others to use the Grantor Property located outside of the Premises in any manner not inconsistent with and which will not interfere with the rights granted to Grantee; provide that Grantor shall not, and shall not permit others, to interfere with or disturb the System or the Solar Improvements.

5. Maintenance and Security. Grantee shall maintain, protect and preserve the System in a safe, neat and attractive condition and in good and serviceable repair. Grantee shall be responsible for ongoing vegetation and weed management within the fenced area on the Premises. Grantor shall be responsible for maintaining Grantor Property located outside of the fenced area. Security for the System shall be the responsibility of Grantee. Nothing in this Agreement shall be construed to impose security

obligations upon Grantor, and Grantor shall not be liable for any loss or damages suffered by Grantee solely due to Grantee's use and occupancy of and activities on the Premises.

6. Representations, Warranties, Covenants, and Quiet Possession. Grantor represents, warrants and covenants that Grantor owns the Grantor Property in fee simple, free and clear of all liens, encumbrances, and restrictions of every kind and nature, except for those that currently appear in the recorded chain of title and are reported as exceptions on the commitment for title insurance that Grantee obtain. Grantor has the right, power, legal capacity and authority to execute, deliver and perform this Agreement. This Agreement constitutes the valid, binding and enforceable obligation of Grantor, enforceable against Grantor in accordance with its terms. There is no action, suit or proceeding pending or threatened against Grantor or Grantor's Property. Neither the entering into this Agreement nor the performance of any of Grantor's obligations under this Agreement will violate the terms of any contract or instrument to which Grantor is a party or by which Grantor is bound. Grantor presently has, and shall continue to have during the Term of this Agreement, the exclusive right to own, occupy and use Grantor's Property, subject only to the rights Grantor has granted under this Agreement. Grantee shall have the quiet use and enjoyment of the Premises and the easements described herein in accordance with and subject to the terms of this Agreement. Grantor agrees that any right, title or interest Grantor creates in favor of or granted to any third party shall be subject and subordinated to (i) this Agreement and all of Grantee's rights, title and interests created in this Agreement, and (ii) any and all documents executed or to be executed by and between Grantee and Grantor in connection with this Agreement.

7. Title to Site Improvements and Infrastructure. Title to the Site Improvements and Infrastructure remains with Grantee at all times during the Term. In the event that Grantee causes any damage to the Grantor Property, Grantee shall facilitate the repair of such damage to return such property of Grantor to substantially the same condition as it existed prior to such damage, at Grantee's sole expense.

8. Grantee's Right to Grant Mortgage; Mortgagee Protection. Grantee may at any time, without Grantor's consent, mortgage or encumber all or any part of its interest in the System, the Site Improvements and Infrastructure, the Solar Improvements, this Agreement and its easement interests in the Premises and Grantor Property and/or enter into a collateral assignment of all or any part of its interest in the foregoing to any entity providing equity or debt financing for the System. Any Mortgagee of Grantee's interest in this Agreement or in the Premises shall, for so long as its Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the following protections, upon delivery to Grantor of notice of the Mortgagee's name and address:

a. Mortgagee's Right to Possession, Right to Acquire and Right to Assign. A Mortgagee shall have the absolute right: (a) to assign its security interest; (b) to enforce its lien and acquire title to the easement estate by any lawful means; (c) to take possession of and operate the Premises or any portion thereof and to perform all obligations to be performed by Grantee under this Agreement, or to cause a receiver to be appointed to do so; and (d) to acquire the easement estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the easement estate to a third party. As used in this Agreement, (i) the term "**Mortgagee**" means any financial institution or other person or entity that provides secured financing for or otherwise encumbers some or all of Grantee's interest in the Agreement or System and Solar Improvements, collectively with any security or collateral agent, indenture trustee, loan trustee or participating or syndicated lender involved in whole or in part in such financing, and their respective representatives, successors and assigns, (ii) the term "**Mortgage**" refers to the mortgage, deed of trust or other security interest in this Agreement and/or the System and Solar Improvements given to a Mortgagee in connection with such financing and (iii) the term "**Mortgaged Interest**" refers to the interest in this Agreement and/or the System and Solar Improvements, that is held by the

Mortgage. Grantee shall have the right, without the consent of Grantor, to grant Mortgages on Grantee's interests hereunder.

b. Notice of Default: Opportunity to Cure. As a precondition to exercising any rights or remedies as a result of any alleged default by Grantee, Grantor shall give written notice of the default to each Mortgagee concurrently with delivery of such notice to Grantee, as applicable, specifying in detail the alleged event of default; provided that such Mortgagee shall have provided Grantor with its current address. In the event the Grantor gives such a written notice of default, the following provisions shall apply:

(i) A "**Monetary Default**" means failure to pay when due any monetary obligation of Grantee to Grantor under this Agreement; any other event of default is a "**Non-Monetary Default.**"

(ii) The Mortgagee shall have the same period after receipt of notice of default to remedy the default, or cause the same to be remedied, as is given to Grantee, plus, in each instance, the following additional time periods: (i) thirty (30) days after receipt of the notice of default in the event of any Monetary Default; and (ii) sixty (60) days after receipt of the notice of default in the event of any Non-Monetary Default, provided that such period shall be extended for the time reasonably required to complete such cure, including the time required for the Mortgagee to perfect its right to cure such Non-Monetary Default by obtaining possession of Grantee's rights in and to the Premises (including possession by a receiver) or by instituting foreclosure proceedings, provided the Mortgagee acts with reasonable and continuous diligence; provided, however, that the Mortgagee shall not have a duty to cure any non-curable defaults (as defined in (iii) below). The Mortgagee shall have the absolute right to substitute itself for Grantee and perform the duties of Grantee under this Agreement for purposes of curing such defaults.

(iii) Following acquisition of Grantee's Mortgaged Interest by the Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Agreement shall continue in full force and effect and the Mortgagee or party acquiring title to the Mortgaged Interest shall, as promptly as reasonably possible, commence the cure of all defaults, other than non-curable defaults, under this Agreement and thereafter diligently process such cure to completion, whereupon Grantor's right to terminate this Agreement based upon such defaults shall be deemed waived; provided, however, the Mortgagee or party acquiring title to the Mortgaged Interest shall not be required to cure those Non-Monetary Defaults which are not reasonably capable of being cured or performed by such party ("**non-curable defaults**"). Non-curable defaults shall be deemed waived by Grantor upon completion of foreclosure proceedings or acquisition of interest in this Agreement by such party.

(iv) Any Mortgagee or other party who acquires the Mortgaged Interest pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Grantee by this Agreement incurred or accruing after such Mortgagee or party no longer has ownership of the easement estate or possession of the Premises.

c. New Agreement to Mortgagee. If this Agreement terminates because of Grantee's or if the Mortgaged Interest is foreclosed, or if this Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors' rights, then Grantor shall, upon written request from any Mortgagee, enter into a new easement of the Premises with Mortgagee, or Mortgagee's

designee, on the following terms and conditions. The terms of the new agreement shall commence on the date of termination, foreclosure, or rejection and shall continue for the remainder of the Term of this Agreement, subject to the same terms and conditions set forth in this Agreement. The new agreement shall be executed within thirty (30) days after receipt by Grantor of written notice of the Mortgagee's election to enter a new agreement, provided said Mortgagee performs all obligations of Grantee under the terms of this Agreement, to the extent performance is then due and reasonably susceptible of being cured and performed by the Mortgagee; and agrees to perform all non-monetary obligations which have not been performed by Grantee and would have accrued under this Agreement up to the date of commencement of the new agreement, except those obligations which constitute non-curable defaults as defined above; and reimburses Grantor for Grantor's reasonable attorney fees incurred in reviewing the same. Any new agreement granted the Mortgagee shall enjoy the same priority as this Agreement over any lien, encumbrance or other interest created by Grantor.

d. Mortgagee's Consent to Amendment, Termination or Surrender. Notwithstanding any provision of this Agreement to the contrary, the parties agree that so long as there exists an unpaid Mortgage, this Agreement shall not be modified or amended and Grantor shall not accept a surrender of the Premises or a cancellation or release of this Agreement from Grantee prior to expiration of the Term without the prior written consent of the Mortgagee. This provision is for the express benefit of and shall be enforceable by such Mortgagee, who shall be a third party beneficiary of this Section.

e. Further Amendments. Provided that Grantee has committed no material default under this Agreement and such default remains uncured after the expiration of all applicable notice and cure periods, at Grantee's request, Grantor shall, at no out-of-pocket expense to Grantor, (a) amend this Agreement to include any provision that may reasonably be requested by an existing or proposed Mortgagee, or by any entity that is proposing to directly or indirectly acquire any interest in the System or this Agreement, and (b) shall execute such additional documents as may reasonably be required to evidence such Mortgagee's or other entity's rights hereunder; provided, however, that such amendment shall not materially impair the rights of Grantor under this Agreement, or extend the Term of this Agreement. Further, Grantor shall, within ten (10) days after written notice from Grantee or any Mortgagee, execute and deliver thereto a certificate to the effect that Grantor (a) recognizes a particular entity as a Mortgagee under this Agreement and (b) will accord to such entity all the rights and privileges of a Mortgagee hereunder; provided that Grantor's failure to timely execute and deliver such certificate shall constitute Grantor's recognition and accord under (a) and (b) above.

f. Further Amendments to Premises Description. In the event that Grantee or any Mortgagee determines that there are any inaccuracies in or changes required to the legal description of the Premises contained in Attachment B or B-1, as applicable, the validity of this Agreement shall not be affected, and, upon the request of Grantee, Grantor shall execute an amendment to the legal description of the Premises to reflect the legal description of the Premises as contained in any survey obtained by Grantee for the Premises.

9. Governmental Approvals and Compliance. Grantee shall obtain any necessary governmental licenses or authorizations required for the construction and use of the Site Improvements and Infrastructure on the Premises and shall comply with government laws and regulations applicable thereto. Notwithstanding the foregoing, Grantee shall not be responsible for any matters arising in connection with applicable environmental laws, except to the extent the need for compliance therefor arises directly out of Grantee's release of any hazardous substances on or about the Premises.

10. Assignment. Grantee is expressly permitted to assign its rights and responsibilities under this Agreement to any entity (a) owned or controlled by Grantee or under common ownership or control with Grantee, or (b) to which Grantee conveys all or any portion of its right title and interest in the System or this Agreement.

11. Notices. All notices, demands, requests, consents, approvals, and other instruments required or permitted to be given pursuant to this Agreement shall be in writing, signed by the notifying party, or officer, agent, or attorney of the notifying party, and shall be deemed to have been effective upon delivery if served personally, including but not limited to delivery by messenger, overnight courier service or overnight express mail, or upon posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Grantor	Mayor, City of Lincoln 700 Broadway Street Lincoln, IL. 62656
To Grantee;	KPH IL 16, LLC William DePhillipo, Manager 12 Paoli Pike, Suite 5 Paoli, PA 19301
With a copy:	By email to legal@keystoneph.com

The address to which any notice, demand, or other writing may be delivered to any party as above provided may be changed by written notice given by such party as above provided.

12. Insurance. At all times during the Term of this Agreement, Grantee shall maintain in full force a commercial general liability insurance policy covering Grantee's operations, activities, and liabilities on the Premises, having singly or in combination limits not less than One Million Dollars (\$1,000,000) in the aggregate. Such policy shall name Grantor as an additional insured. Upon Grantor's request, Grantee shall give Grantor a certificate of insurance evidencing that the insurance required under the Agreement is in force.

13. Operating Expenses. Grantee shall fully and promptly pay for all water, gas, heat, light, power, telephone service, and other public utilities furnished to the Premises and used by Grantee throughout the Term hereof, and for all other costs and expenses of every kind whatsoever in connection with the use, operation, and maintenance of the Premises and all activities conducted thereon.

14. Taxes. Grantor shall pay when due all real property taxes and all other fees and assessments attributable to the Grantor Property. However, upon receipt of real property tax bills, Grantor shall send a copy to Grantee, who shall reimburse Grantor within fifteen (15) business days of receipt for any documented increase in real property taxes levied against the Grantor Property that is directly attributable to Grantee's improvements to the Grantor Property. If Grantor fails to pay any real property taxes or other fees or assessments when due, Grantee, at its sole option, may make such payments and recover such amount from Grantor.

15. Liabilities to Third Parties: Risk of Loss. Grantee shall indemnify, defend and hold Grantor harmless from any liability (including reimbursement of Grantor's reasonable legal fees and all costs) for death or bodily injury to third parties, or physical damage to the property of third parties, to the extent caused by the fault of Grantee or any of Grantee's agents, servants, employees, or licensees, and Grantor

shall indemnify, defend and hold Grantee harmless from any liability (including reimbursement of Grantee's reasonable legal fees and all costs) for death or bodily injury to third parties, or physical damage to the property of third parties, to the extent caused by the fault of Grantor or any of Grantor's agents, servants, employees, or licensees. Notwithstanding any provisions herein to the contrary, it is understood and agreed that all property kept, installed, stored, or maintained in or upon the Premises by Grantee shall be so installed, kept, stored, or maintained at the risk of Grantee; Grantor shall not be responsible for any loss or damage to equipment owned by Grantee from tornadoes, lightning, windstorms, or other Acts of God. The covenants of this Section shall survive and be enforceable and shall continue in full force and effect for the benefit of the parties and their respective subsequent transferees, successors, and assigns, and shall survive the termination of this Agreement.

16. Default and Termination for Default. Grantor or Grantee shall be in default of this Agreement if either party breaches any material provision hereof and said breach is not cured by the breaching party within sixty (60) days of receipt of notice of said breach from the non-breaching party, or if such cure cannot reasonably be had within said sixty (60) day period, then if cure of such breach is not commenced within thirty (30) days of receipt of such notice and not thereafter completed using diligent efforts. Upon the breaching party's failure to cure its breach within such time, as applicable, the non-breaching party shall have the right to terminate this Agreement for default, and to pursue such remedies as may be available in law or equity.

17. Removal of Site Improvements and Infrastructure Upon Termination. Upon termination of this Agreement, Grantee shall remove the System, including the Site Improvements and Infrastructure, in accordance with Section 2 of this Agreement, and Grantee shall have all necessary rights of access across Grantor Property in order to facilitate such removal.

18. Binding on Successors. The covenants and conditions contained herein shall apply to and bind the parties hereto and their respective heirs, successors, executors, administrators, and assigns.

19. Governing Law; Disputes. The parties intend that this Agreement and the relationship of the parties shall be governed by the laws of Illinois. Any dispute arising from or related to this Agreement shall be governed by Section 22.b. of the Solar Agreement.

20. Entire Agreement; Waiver. This Agreement and the Solar Agreement shall be read and interpreted together in order to give effect to every provision in both agreements to the extent practicable and in accordance with the intent of the parties; and the two agreements together constitute the entire agreement between the parties with respect to their subject matter. No modification, waiver, or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party unless in writing signed by that party or a duly authorized agent of that party empowered by a written authority signed by that party. The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision by the same party, or of any other provision or condition of the Agreement.

21. Mechanic's Liens. Grantee will not cause any mechanic's or materialman's lien to be placed on the Premises, and Grantee agrees to indemnify, defend, and hold harmless Grantor from any such lien from a party claiming by, through, or under Grantee; provided that Grantee shall be permitted to remove any such lien by bond or other suitable instrument.

22. Further Assurances. Each of the parties agrees to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably require to consummate, evidence, or confirm this Agreement or any other agreement contained herein in the manner contemplated hereby.

23. Right to Record. Grantee shall, at its expense, have this Agreement recorded in the office of the Logan County Recorder of Deeds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, as a sealed instrument, as of the day and year first above written.

GRANTOR:

The City of Lincoln

By: _____

Title: _____

Date: _____

GRANTEE:

KPH IL 16, LLC

By: _____

Title: _____

Date: _____

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____ in the year 20____, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission expires:

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____ in the year 20____, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission expires:

ATTACHMENT A

LEGAL DESCRIPTION OF THE GRANTOR PROPERTY

Approximately 15 acres having the Parcel ID Nos. 12-036-070-00, 12-036-062-00, and 12-036-062-40 in the City of Lincoln in the County of Logan, IL, shown below:

Legal description:

Parcel ID 12-036-062-40; Legal Description 12-739 S36 T20 R3 PB-1002 – 5.10 A TRACT PT SW SE (Main Plant)

Parcel ID 12-036-070-00; Legal Description 12-746 S36 T20 R3 LESS .80 A FOR ROAD SE SE (Solar Array)

Parcel ID 12-036-062-00; Legal Description L4 & Pt L6&8 (Interconnection)

If survey is performed, to be updated after full legal description and metes and bounds is obtained.

ATTACHMENT B

LEGAL DESCRIPTION OF THE PREMISES

*Parcel ID 12-036-070-00; Legal Description 12-746 S36 T20 R3 LESS .80 A FOR ROAD SE SE
(Solar Array)*

ATTACHMENT B-1

GRANTEE'S SURVEY OF THE PREMISES

To be revised by Grantee based upon the survey referenced in Section 1.

SECOND AMENDMENT TO SOLAR POWER PURCHASE AGREEMENT

This second amendment (“**Second Amendment**”) is entered into on this ____ day of _____, 2022 (the “**Effective Date**”), by and between KPH IL16, LLC, a Pennsylvania limited liability company (“**Seller**”), and The City of Lincoln, Illinois, an Illinois municipal corporation (“**Purchaser**”). Seller and Purchaser are sometimes herein referred to individually as “**Party**” and collectively as the “**Parties.**”

RECITALS

WHEREAS, Seller and Purchaser entered into a Solar Power Purchase Agreement dated April 14, 2020 (“**PPA**”), for solar photovoltaic generated electricity to be supplied by Seller to Purchaser by a solar energy generating system (“**System**”) on or near and interconnected to the City of Lincoln sewer plant at 150 W. Kickapoo St., Lincoln, IL 62656 (“**Premises**”);

WHEREAS, Seller and Purchaser entered into a first amendment (“**First Amendment**”) to the PPA on December 3, 2020; and

WHEREAS, the Parties have agreed to amend the PPA as provided herein;

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby amend the PPA as follows:

1. Defined Terms. For purposes of this Second Amendment, all terms not otherwise defined herein shall have the meanings assigned to them in the PPA.
2. Exhibit 2, Attachment A. The property diagram shown on and a part of Exhibit 2, Attachment A is replaced with the following diagram and may be updated with a final as-built diagram



from Grantee, which shall replace this diagram and become part of this Second Amendment.

3. Exhibit 4, Section 8.a. Exhibit 4, Section 8.a. is deleted in its entirety and replaced with the following:

- a. Interim Easement; Facility Access Rights. Purchaser grants to Seller and to Seller's agents, employees, contractors and assignees an irrevocable non-exclusive easement running with the property (the "**Interim Easement**") for access to, on, over, under and across Parcel numbers 12-036-070-00, 12-036-062-00, and 12-036-062-40 owned by Purchaser, as legally described on Exhibit 4, Attachment B, and shown on the property diagram included as part of Exhibit 2, Attachment A (the "**Interim Easement Property**." Seller shall use the Interim Easement for the purposes of (i) installing, constructing, operating, owning, maintaining, accessing, removing and replacing the System, as well as such other equipment, facilities and improvements Seller deems necessary or useful in connection with the System; (ii) trimming, removing, and maintaining trees and other vegetation in preparation for System installation and construction and thereafter as necessary to preserve complete exposure of the System's solar panels to Insolation; and (iii) installing, using and maintaining electric lines and equipment, including transformers, inverters and meters necessary to interconnect the System to Purchaser's electric system at the Facility, to the Utility's electric distribution system, if any, or for any other purpose that may from time to time be useful or necessary in connection with the construction, installation, operation, maintenance or repair of the System. Seller shall notify Purchaser prior to entering the Facility except in situations where there is imminent risk of damage to persons or property. Seller shall have the right to a suitable storage space at a mutually convenient location on the Premises as close to the Facility as practicable in order to store spare parts for quick repair of the System by technicians. The covered storage space must be able to be secured by lock or other suitable means of security and be readily accessible by Seller's representatives, and large enough to hold one pallet of solar panels and two inverters in box. Seller expects that the covered storage space will be no larger than six feet by ten feet (sixty square feet). The term of the Interim Easement shall continue until the date that the Easement Agreement referenced in Section 5 below becomes effective, which shall not be later than the Commercial Operation Date and may be such earlier date that Seller may reasonably determine and so notify Purchaser (the "**Interim Easement Term**"). During the Interim Easement Term, Purchaser shall ensure that Seller's rights under the Interim Easement and Seller's access to the Premises and the Facility are preserved and protected. Purchaser shall not interfere with nor shall permit any third parties to interfere with such rights or access. The grant of the Interim Easement shall, if the Easement Agreement is not yet in effect, survive termination of this Agreement by either Party to the extent necessary to allow Seller to remove the System and to accomplish any other remaining obligations of Seller.

4. Exhibit 4, Section 14.b. Exhibit 4, Section 14.b. is amended by replacing the term "License" with "Interim Easement."

5. Exhibit 5. Exhibit 5, which is the form of Easement Agreement, is deleted in its entirety and replaced with the form of Easement Agreement attached to and incorporated as part of this Second Amendment as Exhibit 5 (Revised).

6. Exhibit 1. Exhibit 1, Section 9 is amended by replacing December 31, 2022 with June 30, 2023 as the Outside Commercial Operation Date.

Except to the express extent and as modified by this Second Amendment, the PPA and First Amendment remain in full force and effect. This Second Amendment may be executed in counterparts, which shall be taken together and constitute the same instrument. Facsimile or electronic mail of executed versions of this Second Amendment shall be legally valid and binding on the Parties.

IN WITNESS WHEREOF, the Parties have duly executed this Second Amendment as of the Effective Date.

SELLER

KPH IL16, LLC

By: _____

Name: _____

Title: _____

PURCHASER

The City of Lincoln, Illinois

By: _____

Name: _____

Title: _____

Exhibit 5 (Revised)

Form of Easement Agreement

This Easement Agreement (the “**Agreement**”) is made this ___ day of _____, 202_ (“**Effective Date**”), by and between The City of Lincoln, Illinois (“**Grantor**”), and KPH IL 16, LLC, a Pennsylvania limited liability company, having an office at 12 Paoli Pike, Suite 5, Paoli, PA 19301 (“**Grantee**”).

RECITALS

A. Grantor is the owner of those certain parcels or tracts of land located in Logan County, Illinois, with parcel numbers 12-036-070-00, 12-036-062-00, and 12-036-062-40, and more particularly described on Attachment A hereto (the “**Grantor Property**”).

B. Grantor and Grantee entered into a certain Solar Power Purchase Agreement, which the parties amended by a First Amendment and Second Amendment (together, the “**Solar Agreement**”) pursuant to which Grantee has agreed to design, construct, install, operate and maintain a certain solar voltaic system on a portion of the Grantor Property (the “**Premises**”) for the purpose of providing electricity to portions of the City of Lincoln sewage treatment plant located on the Grantor Property.

C. Grantor desires to grant to Grantee the rights described herein for the purposes of designing, installing, operating, maintaining and removing the System on and from the Premises.

AGREEMENT

In consideration of the mutual covenants and agreements contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee agree as follows.

1. Grant of Easements.

a. System on Premises. Grantor grants and conveys to Grantee an easement across, over, under and above the Grantor Property to construct an approximately 1,600 to 2,400 kW DC ground-mounted solar photovoltaic electric energy generation facility (the “**System**”) on the Premises at Grantee’s sole expense. Grantee’s rights to use the Premises shall be exclusive. A legal description of the Premises is attached hereto and incorporated herein as Attachment B. Grantor grants to Grantee the right, but not the obligation, to survey the Premises at Grantee’s cost, and the legal description of the Premises, including any access or utility easements, provided in the survey shall then become Attachment B-1, which shall be attached hereto and made a part hereof and which will become the legal description of the Premises. In the event of any discrepancy between the description of the property contained herein and the survey, the survey shall control. The System shall consist of racking and foundations; inverters and transformers; batteries if required or necessary, necessary electrical interconnections and all improvements and connections required to transfer and deliver generation offsite, including three (3) phase extensions and power box(es); a 100 to 300 square-foot pad or structure to house electrical and maintenance equipment (“**PV Box**”); security fencing and gating, with cameras, enclosing the Premises; safety signage and solar photo voltaic (“**PV**”) panels; and such other equipment, facilities and improvements Grantee deems necessary or useful in connection with the System

(collectively the “**Site Improvements and Infrastructure**”). For any new construction on the Premises, such construction shall be designed and built to the minimum standards for any county, state and federal codes and requirements in effect at the time of construction, including without limitation, the applicable building and fire codes. Grantee shall have the right to place one or more signs advertising the System provided that, prior to putting up any such signage, Grantee has obtained all required sign permits from the local governing authority. Grantee shall have the right to take such actions and to construct such improvements as are necessary to comply with any requirements imposed by the County with respect to the System, including but not limited to the right to construct and maintain a fence around the System for the duration of the Agreement. Grantor agrees to execute any easement agreement required by the local utility for interconnection in the form required by the utility.

b. Ingress, Egress, Utility and Solar Easement. The rights granted to Grantee in this Agreement include, without limitation the following easements and related rights:

(i) the exclusive right to erect, construct, reconstruct, replace, relocate, remove, operate, maintain and use the following from time to time, on, under, over and across the Grantor Property, including under South Lake Road (as shown in the diagram in Section 2 of the Second Amendment to the Solar Purchase Power Agreement between Grantor and Grantee), in connection with System: (a) a line or lines of towers, with such wires and cables as from time to time are suspended therefrom, and/or underground wires and cables, for the transmission of electrical energy and/or for communication purposes, and all necessary and proper foundations, footings, crossarms and other appliances, equipment, facilities and fixtures for use in connection with said towers, wires and cables (collectively “**Transmission Facilities**”); (b) facilities to be installed on the Premises consisting of one or more substations for electrical collection, to step up the voltage, interconnect to transmission line or lines, and meter electricity, together with the right to perform all other ancillary activities normally associated with such a facility as may be necessary or appropriate to service System, regardless where located (collectively “**Interconnection Facilities**”, which, with the Transmission Facilities and improvements installed in connection with the System, collectively constitute the “**Solar Improvements**”); and (c) with all necessary easements therefor;

(ii) an easement and right on, over and across the Grantor Property for any audio, visual, view, light, shadow, noise, vibration, electromagnetic or other effect of any kind or nature whatsoever resulting, directly or indirectly, from the System, including but not limited to rights to cast shadows and reflect glare onto all of Grantor’s property including any adjoining property, from the System and/or any and all other related facilities, wherever located;

(iii) an exclusive easement and right to capture, use and convert sunlight and related solar resources on an unobstructed basis over and across the Grantor Property; any obstruction to the receipt of and access to sunlight throughout the entire area of the Premises is prohibited;

(iv) an access easement on, over and across the Grantor Property, including South Lake Road, for ingress and egress to the Premises, to and from a public road, and a construction and utility easement over the Grantor Property for construction and maintenance of the Solar Improvements;

(v) a non-exclusive right of access for ingress and egress on, over, and across the Grantor Property, including South Lake Road, for the installation, operation, maintenance, repair, replacement and removal of Transmission Facilities and Interconnection Facilities across, over or under the Grantor Property; and

(vi) the right to undertake for any such purposes other activities, whether accomplished by Grantee or a third party authorized by Grantee, that Grantee determines are necessary, useful or appropriate to accomplish any of the purposes or uses set forth in this Agreement or that are compatible with such purposes or uses.

c. Easements in Gross. The parties expressly intend for all easement rights herein to be, and for this Agreement to create, **EASEMENTS IN GROSS** in Grantee, its successors and assigns, personal to and for the benefit of Grantee, its successors and assigns, as owner of such easements, and neither such easements nor this Agreement shall be appurtenant to any other property or interest. The parties expressly agree that such easement rights shall be transferable in accordance with the assignment provisions of this Agreement. If Grantor conveys the Grantor Property, or any portion thereof, during the Term, any granting document, including the deed, shall convey the Grantor Property expressly subject to the existence and effectiveness of the easements contained herein.

2. The Term. The primary term shall be for twenty five (25) years commencing on the Effective Date (the “**Initial Term**”). Grantee shall have the option and right to elect to extend this Agreement for up to three (3) five (5) year extensions (each such extension referred to as an “**Additional Term**”, or collectively as the “**Additional Terms**”). Grantee shall give Grantor written notice of its election to extend the Agreement on or before the commencement of the twenty fifth (25th) year (which is the last year) of the Primary Term, or the end of the then-current Additional Term, whichever is later. An additional decommissioning term shall commence upon expiration of the Primary Term, or expiration of the last Additional Term, whichever is later, or the earlier termination of this Agreement, to allow for Grantee’s decommissioning and removal of the System, which shall last no longer than six (6) months, unless extended per mutual written agreement of Grantee and Grantor.

3. Consideration. The consideration for the Grantor’s grant of the easement rights granted herein includes the right and ability of Grantee to construct and operate the System and enabling of Grantee’s performance of its obligations under the Solar Agreement.

4. Grantor Reserved Rights. Grantor reserves the right to use or authorize others to use the Grantor Property located outside of the Premises in any manner not inconsistent with and which will not interfere with the rights granted to Grantee; provide that Grantor shall not, and shall not permit others, to interfere with or disturb the System or the Solar Improvements.

5. Maintenance and Security. Grantee shall maintain, protect and preserve the System in a safe, neat and attractive condition and in good and serviceable repair. Grantee shall be responsible for ongoing vegetation and weed management within the fenced area on the Premises. Grantor shall be responsible for maintaining Grantor Property located outside of the fenced area. Security for the System shall be the responsibility of Grantee. Nothing in this Agreement shall be construed to impose security obligations upon Grantor, and Grantor shall not be liable for any loss or damages suffered by Grantee solely due to Grantee’s use and occupancy of and activities on the Premises.

6. Representations, Warranties, Covenants, and Quiet Possession. Grantor represents, warrants and covenants that Grantor owns the Grantor Property in fee simple, free and clear of all liens, encumbrances, and restrictions of every kind and nature, except for those that currently appear in the

recorded chain of title and are reported as exceptions on the commitment for title insurance that Grantee obtain. Grantor has the right, power, legal capacity and authority to execute, deliver and perform this Agreement. This Agreement constitutes the valid, binding and enforceable obligation of Grantor, enforceable against Grantor in accordance with its terms. There is no action, suit or proceeding pending or threatened against Grantor or Grantor's Property. Neither the entering into this Agreement nor the performance of any of Grantor's obligations under this Agreement will violate the terms of any contract or instrument to which Grantor is a party or by which Grantor is bound. Grantor presently has, and shall continue to have during the Term of this Agreement, the exclusive right to own, occupy and use Grantor's Property, subject only to the rights Grantor has granted under this Agreement. Grantee shall have the quiet use and enjoyment of the Premises and the easements described herein in accordance with and subject to the terms of this Agreement. Grantor agrees that any right, title or interest Grantor creates in favor of or granted to any third party shall be subject and subordinated to (i) this Agreement and all of Grantee's rights, title and interests created in this Agreement, and (ii) any and all documents executed or to be executed by and between Grantee and Grantor in connection with this Agreement.

7. Title to Site Improvements and Infrastructure. Title to the Site Improvements and Infrastructure remains with Grantee at all times during the Term. In the event that Grantee causes any damage to the Grantor Property, Grantee shall facilitate the repair of such damage to return such property of Grantor to substantially the same condition as it existed prior to such damage, at Grantee's sole expense.

8. Grantee's Right to Grant Mortgage; Mortgagee Protection. Grantee may at any time, without Grantor's consent, mortgage or encumber all or any part of its interest in the System, the Site Improvements and Infrastructure, the Solar Improvements, this Agreement and its easement interests in the Premises and Grantor Property and/or enter into a collateral assignment of all or any part of its interest in the foregoing to any entity providing equity or debt financing for the System. Any Mortgagee of Grantee's interest in this Agreement or in the Premises shall, for so long as its Mortgage is in existence and until the lien thereof has been extinguished, be entitled to the following protections, upon delivery to Grantor of notice of the Mortgagee's name and address:

a. Mortgagee's Right to Possession, Right to Acquire and Right to Assign. A Mortgagee shall have the absolute right: (a) to assign its security interest; (b) to enforce its lien and acquire title to the easement estate by any lawful means; (c) to take possession of and operate the Premises or any portion thereof and to perform all obligations to be performed by Grantee under this Agreement, or to cause a receiver to be appointed to do so; and (d) to acquire the easement estate by foreclosure or by an assignment in lieu of foreclosure and thereafter to assign or transfer the easement estate to a third party. As used in this Agreement, (i) the term "**Mortgagee**" means any financial institution or other person or entity that provides secured financing for or otherwise encumbers some or all of Grantee's interest in the Agreement or System and Solar Improvements, collectively with any security or collateral agent, indenture trustee, loan trustee or participating or syndicated lender involved in whole or in part in such financing, and their respective representatives, successors and assigns, (ii) the term "**Mortgage**" refers to the mortgage, deed of trust or other security interest in this Agreement and/or the System and Solar Improvements given to a Mortgagee in connection with such financing and (iii) the term "**Mortgaged Interest**" refers to the interest in this Agreement and/or the System and Solar Improvements, that is held by the Mortgagee. Grantee shall have the right, without the consent of Grantor, to grant Mortgages on Grantee's interests hereunder.

b. Notice of Default: Opportunity to Cure. As a precondition to exercising any rights or remedies as a result of any alleged default by Grantee, Grantor shall give written notice of the default to each Mortgagee concurrently with delivery of such notice to Grantee, as

applicable, specifying in detail the alleged event of default; provided that such Mortgagee shall have provided Grantor with its current address. In the event the Grantor gives such a written notice of default, the following provisions shall apply:

(i) A “**Monetary Default**” means failure to pay when due any monetary obligation of Grantee to Grantor under this Agreement; any other event of default is a “**Non-Monetary Default.**”

(ii) The Mortgagee shall have the same period after receipt of notice of default to remedy the default, or cause the same to be remedied, as is given to Grantee, plus, in each instance, the following additional time periods: (i) thirty (30) days after receipt of the notice of default in the event of any Monetary Default; and (ii) sixty (60) days after receipt of the notice of default in the event of any Non-Monetary Default, provided that such period shall be extended for the time reasonably required to complete such cure, including the time required for the Mortgagee to perfect its right to cure such Non-Monetary Default by obtaining possession of Grantee’s rights in and to the Premises (including possession by a receiver) or by instituting foreclosure proceedings, provided the Mortgagee acts with reasonable and continuous diligence; provided, however, that the Mortgagee shall not have a duty to cure any non-curable defaults (as defined in (iii) below). The Mortgagee shall have the absolute right to substitute itself for Grantee and perform the duties of Grantee under this Agreement for purposes of curing such defaults.

(iii) Following acquisition of Grantee’s Mortgaged Interest by the Mortgagee or its assignee or designee as a result of either foreclosure or acceptance of an assignment in lieu of foreclosure, or by a purchaser at a foreclosure sale, this Agreement shall continue in full force and effect and the Mortgagee or party acquiring title to the Mortgaged Interest shall, as promptly as reasonably possible, commence the cure of all defaults, other than non-curable defaults, under this Agreement and thereafter diligently process such cure to completion, whereupon Grantor’s right to terminate this Agreement based upon such defaults shall be deemed waived; provided, however, the Mortgagee or party acquiring title to the Mortgaged Interest shall not be required to cure those Non-Monetary Defaults which are not reasonably capable of being cured or performed by such party (“**non-curable defaults**”). Non-curable defaults shall be deemed waived by Grantor upon completion of foreclosure proceedings or acquisition of interest in this Agreement by such party.

(iv) Any Mortgagee or other party who acquires the Mortgaged Interest pursuant to foreclosure or assignment in lieu of foreclosure shall not be liable to perform the obligations imposed on Grantee by this Agreement incurred or accruing after such Mortgagee or party no longer has ownership of the easement estate or possession of the Premises.

c. New Agreement to Mortgagee. If this Agreement terminates because of Grantee’s or if the Mortgaged Interest is foreclosed, or if this Agreement is rejected or disaffirmed pursuant to bankruptcy law or other law affecting creditors’ rights, then Grantor shall, upon written request from any Mortgagee, enter into a new easement of the Premises with Mortgagee, or Mortgagee’s designee, on the following terms and conditions. The terms of the new agreement shall commence on the date of termination, foreclosure, or rejection and shall continue for the remainder of the Term of this Agreement, subject to the same terms and conditions set forth in this Agreement. The new agreement shall be executed within thirty (30) days after receipt by Grantor of written notice of the Mortgagee’s election to enter a new

agreement, provided said Mortgagee performs all obligations of Grantee under the terms of this Agreement, to the extent performance is then due and reasonably susceptible of being cured and performed by the Mortgagee; and agrees to perform all non-monetary obligations which have not been performed by Grantee and would have accrued under this Agreement up to the date of commencement of the new agreement, except those obligations which constitute non-curable defaults as defined above; and reimburses Grantor for Grantor's reasonable attorney fees incurred in reviewing the same. Any new agreement granted the Mortgagee shall enjoy the same priority as this Agreement over any lien, encumbrance or other interest created by Grantor.

d. Mortgagee's Consent to Amendment, Termination or Surrender. Notwithstanding any provision of this Agreement to the contrary, the parties agree that so long as there exists an unpaid Mortgage, this Agreement shall not be modified or amended and Grantor shall not accept a surrender of the Premises or a cancellation or release of this Agreement from Grantee prior to expiration of the Term without the prior written consent of the Mortgagee. This provision is for the express benefit of and shall be enforceable by such Mortgagee, who shall be a third party beneficiary of this Section.

e. Further Amendments. Provided that Grantee has committed no material default under this Agreement and such default remains uncured after the expiration of all applicable notice and cure periods, at Grantee's request, Grantor shall, at no out-of-pocket expense to Grantor, (a) amend this Agreement to include any provision that may reasonably be requested by an existing or proposed Mortgagee, or by any entity that is proposing to directly or indirectly acquire any interest in the System or this Agreement, and (b) shall execute such additional documents as may reasonably be required to evidence such Mortgagee's or other entity's rights hereunder; provided, however, that such amendment shall not materially impair the rights of Grantor under this Agreement, or extend the Term of this Agreement. Further, Grantor shall, within ten (10) days after written notice from Grantee or any Mortgagee, execute and deliver thereto a certificate to the effect that Grantor (a) recognizes a particular entity as a Mortgagee under this Agreement and (b) will accord to such entity all the rights and privileges of a Mortgagee hereunder; provided that Grantor's failure to timely execute and deliver such certificate shall constitute Grantor's recognition and accord under (a) and (b) above.

f. Further Amendments to Premises Description. In the event that Grantee or any Mortgagee determines that there are any inaccuracies in or changes required to the legal description of the Premises contained in Attachment B or B-1, as applicable, the validity of this Agreement shall not be affected, and, upon the request of Grantee, Grantor shall execute an amendment to the legal description of the Premises to reflect the legal description of the Premises as contained in any survey obtained by Grantee for the Premises.

9. Governmental Approvals and Compliance. Grantee shall obtain any necessary governmental licenses or authorizations required for the construction and use of the Site Improvements and Infrastructure on the Premises and shall comply with government laws and regulations applicable thereto. Notwithstanding the foregoing, Grantee shall not be responsible for any matters arising in connection with applicable environmental laws, except to the extent the need for compliance therefor arises directly out of Grantee's release of any hazardous substances on or about the Premises.

10. Assignment. Grantee is expressly permitted to assign its rights and responsibilities under this Agreement to any entity (a) owned or controlled by Grantee or under common ownership or control with Grantee, or (b) to which Grantee conveys all or any portion of its right title and interest in the System or this Agreement.

11. Notices. All notices, demands, requests, consents, approvals, and other instruments required or permitted to be given pursuant to this Agreement shall be in writing, signed by the notifying party, or officer, agent, or attorney of the notifying party, and shall be deemed to have been effective upon delivery if served personally, including but not limited to delivery by messenger, overnight courier service or overnight express mail, or upon posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To Grantor Mayor, City of Lincoln
700 Broadway Street
Lincoln, IL. 62656

To Grantee; KPH IL 16, LLC
William DePhillipo, Manager
12 Paoli Pike, Suite 5
Paoli, PA 19301

With a copy: By email to legal@keystoneph.com

The address to which any notice, demand, or other writing may be delivered to any party as above provided may be changed by written notice given by such party as above provided.

12. Insurance. At all times during the Term of this Agreement, Grantee shall maintain in full force a commercial general liability insurance policy covering Grantee's operations, activities, and liabilities on the Premises, having singly or in combination limits not less than One Million Dollars (\$1,000,000) in the aggregate. Such policy shall name Grantor as an additional insured. Upon Grantor's request, Grantee shall give Grantor a certificate of insurance evidencing that the insurance required under the Agreement is in force.

13. Operating Expenses. Grantee shall fully and promptly pay for all water, gas, heat, light, power, telephone service, and other public utilities furnished to the Premises and used by Grantee throughout the Term hereof, and for all other costs and expenses of every kind whatsoever in connection with the use, operation, and maintenance of the Premises and all activities conducted thereon.

14. Taxes. Grantor shall pay when due all real property taxes and all other fees and assessments attributable to the Grantor Property. However, upon receipt of real property tax bills, Grantor shall send a copy to Grantee, who shall reimburse Grantor within fifteen (15) business days of receipt for any documented increase in real property taxes levied against the Grantor Property that is directly attributable to Grantee's improvements to the Grantor Property. If Grantor fails to pay any real property taxes or other fees or assessments when due, Grantee, at its sole option, may make such payments and recover such amount from Grantor.

15. Liabilities to Third Parties: Risk of Loss. Grantee shall indemnify, defend and hold Grantor harmless from any liability (including reimbursement of Grantor's reasonable legal fees and all costs) for death or bodily injury to third parties, or physical damage to the property of third parties, to the extent caused by the fault of Grantee or any of Grantee's agents, servants, employees, or licensees, and Grantor shall indemnify, defend and hold Grantee harmless from any liability (including reimbursement of Grantee's reasonable legal fees and all costs) for death or bodily injury to third parties, or physical damage to the property of third parties, to the extent caused by the fault of Grantor or any of Grantor's agents, servants, employees, or licensees. Notwithstanding any provisions herein to the contrary, it is understood and agreed that all property kept, installed, stored, or maintained in or upon the Premises by

Grantee shall be so installed, kept, stored, or maintained at the risk of Grantee; Grantor shall not be responsible for any loss or damage to equipment owned by Grantee from tornadoes, lightning, windstorms, or other Acts of God. The covenants of this Section shall survive and be enforceable and shall continue in full force and effect for the benefit of the parties and their respective subsequent transferees, successors, and assigns, and shall survive the termination of this Agreement.

16. Default and Termination for Default. Grantor or Grantee shall be in default of this Agreement if either party breaches any material provision hereof and said breach is not cured by the breaching party within sixty (60) days of receipt of notice of said breach from the non-breaching party, or if such cure cannot reasonably be had within said sixty (60) day period, then if cure of such breach is not commenced within thirty (30) days of receipt of such notice and not thereafter completed using diligent efforts. Upon the breaching party's failure to cure its breach within such time, as applicable, the non-breaching party shall have the right to terminate this Agreement for default, and to pursue such remedies as may be available in law or equity.

17. Removal of Site Improvements and Infrastructure Upon Termination. Upon termination of this Agreement, Grantee shall remove the System, including the Site Improvements and Infrastructure, in accordance with Section 2 of this Agreement, and Grantee shall have all necessary rights of access across Grantor Property in order to facilitate such removal.

18. Binding on Successors. The covenants and conditions contained herein shall apply to and bind the parties hereto and their respective heirs, successors, executors, administrators, and assigns.

19. Governing Law; Disputes. The parties intend that this Agreement and the relationship of the parties shall be governed by the laws of Illinois. Any dispute arising from or related to this Agreement shall be governed by Section 22.b. of the Solar Agreement.

20. Entire Agreement; Waiver. This Agreement and the Solar Agreement shall be read and interpreted together in order to give effect to every provision in both agreements to the extent practicable and in accordance with the intent of the parties; and the two agreements together constitute the entire agreement between the parties with respect to their subject matter. No modification, waiver, or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party unless in writing signed by that party or a duly authorized agent of that party empowered by a written authority signed by that party. The waiver by any party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision by the same party, or of any other provision or condition of the Agreement.

21. Mechanic's Liens. Grantee will not cause any mechanic's or materialman's lien to be placed on the Premises, and Grantee agrees to indemnify, defend, and hold harmless Grantor from any such lien from a party claiming by, through, or under Grantee; provided that Grantee shall be permitted to remove any such lien by bond or other suitable instrument.

22. Further Assurances. Each of the parties agrees to do such further acts and things and to execute and deliver such additional agreements and instruments as the other may reasonably require to consummate, evidence, or confirm this Agreement or any other agreement contained herein in the manner contemplated hereby.

23. Right to Record. Grantee shall, at its expense, have this Agreement recorded in the office of the Logan County Recorder of Deeds.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, as a sealed instrument, as of the day and year first above written.

GRANTOR:

The City of Lincoln

By: _____

Title: _____

Date: _____

GRANTEE:

KPH IL 16, LLC

By: _____

Title: _____

Date: _____

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____ in the year 20____, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission expires:

STATE OF _____)
) ss:
COUNTY OF _____)

On the ____ day of _____ in the year 20____, before me, the undersigned, a notary public in and for said state, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that (s)he executed the same in his/her capacity, and that by his/her signature on the instrument, the individual, or the person on behalf of which the individual acted, executed the instrument.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission expires:

ATTACHMENT A

LEGAL DESCRIPTION OF THE GRANTOR PROPERTY

Approximately 15 acres having the Parcel ID Nos. 12-036-070-00, 12-036-062-00, and 12-036-062-40 in the City of Lincoln in the County of Logan, IL, shown below:

Legal description:

Parcel ID 12-036-062-40; Legal Description 12-739 S36 T20 R3 PB-1002 – 5.10 A TRACT PT SW SE (Main Plant)

Parcel ID 12-036-070-00; Legal Description 12-746 S36 T20 R3 LESS .80 A FOR ROAD SE SE (Solar Array)

Parcel ID 12-036-062-00; Legal Description L4 & Pt L6&8 (Interconnection)

If survey is performed, to be updated after full legal description and metes and bounds is obtained.

ATTACHMENT B

LEGAL DESCRIPTION OF THE PREMISES

*Parcel ID 12-036-070-00; Legal Description 12-746 S36 T20 R3 LESS .80 A FOR ROAD SE SE
(Solar Array)*

ATTACHMENT B-1

GRANTEE'S SURVEY OF THE PREMISES

To be revised by Grantee based upon the survey referenced in Section 1.