

ORDINANCE NO. _____

AN ORDINANCE WAIVING FORMAL BIDDING REQUIREMENTS TO PURCHASE CURRENTLY INSTALLED METERING EQUIPMENT; AUTHORIZING THE EXECUTION OF A BILL OF SALE; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

WHEREAS, Ark. Code Ann. § 14-58-303 requires city purchases exceeding the amount of \$20,000 to follow statutory procedures of local government advertisement and opening of sealed bids which *may only be waived in exceptional situations where bidding is deemed not feasible or practical*; and

WHEREAS, the metering equipment used in North Little Rock Electric Department (“NLRED”) substations is owned by Louisiana Generating LLC (“NRG”), the City’s current wholesale power supplier; and

WHEREAS, NLRED’s contract with NRG will expire at the end of 2016 and NLRED will require metering equipment to submit load data to the Midcontinent Independent System Operator (“MISO”) as required for marketplace participation; and

WHEREAS, the metering equipment that is currently installed has functioned well with our existing SCADA and communication systems; and

WHEREAS, NRG has agreed to sell the metering equipment that is currently installed for \$80,000, which is less than half the cost of new metering equipment; and

WHEREAS, it is in the best interests of the City and its residents that NLRED purchase required metering equipment from NRG for \$80,000.00.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That formal bidding is hereby waived, and the Mayor (or his designee) is hereby authorized to enter into a Bill of Sale Agreement (substantially similar to Exhibit “A” attached hereto) with Louisiana Generating LLC for the purchase of NRG SKADA radios and related equipment at a cost of \$80,000.00.

SECTION 2: That the amount of \$80,000.00 for the radio equipment has been included in the North Little Rock Electric Department 2016 Budget.

SECTION 3: That all ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

SECTION 4: That the provisions of this Ordinance are hereby declared to be severable and if any section, phrase or provision shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases or provisions.

SECTION 5: It is hereby found and determined that NLRED must immediately acquire metering equipment in order to participate in the MISO marketplace and that the meters owned by NRG operate properly, are already installed, and provide a low cost method for marketplace compliance; that the adoption of this Ordinance is immediately necessary to insure the proper and orderly growth of the City of North Little Rock, Arkansas and is necessary for the immediate preservation of the public health, safety and welfare; THEREFORE, an emergency is hereby declared to exist, and this Ordinance shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Joe A. Smith

SPONSOR:

ATTEST:

Joe A. Smith
Mayor Joe A. Smith *m-sm*

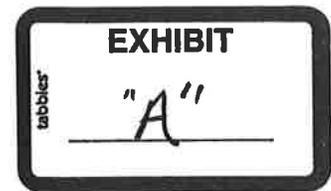
Diane Whitbey, City Clerk

APPROVED AS TO FORM:

C. Jason Carter
C. Jason Carter, City Attorney *m-sm*

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b

FILED <u>10:54</u> A.M. _____ P.M.
By <u>Asst City Atty Miller</u>
DATE <u>10/28/06</u>
Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas
RECEIVED BY <u>D. Whitbey</u>



BILL OF SALE AGREEMENT

BE IT KNOWN, that on this ____ day of _____, 2016, before me, the first undersigned Notary Public, duly commissioned and qualified in and for the first State and County/Parish set forth below, and in the presence of the two undersigned competent witnesses, on the date first set forth below, but effective as of January 1, 2017 (the "**Effective Date**"), personally came and appeared:

Louisiana Generating LLC, a Delaware limited liability company, having a mailing address of 112 Telly Street, New Roads, LA 70760, (hereinafter referred to as "**Seller**");

AND BE IT KNOWN, that before me, the second undersigned Notary Public, duly commissioned and qualified in and for the second State and County set forth below, and in the presence of the two undersigned competent witnesses, on the date second set forth below, but effective as of the Effective Date, personally came and appeared:

The City of North Little Rock, Arkansas, a political subdivision of the State of Arkansas, having a mailing address of City Hall, 300 Main St., North Little Rock, Arkansas 72114, (hereinafter referred to as "**Buyer**").

1. Conveyance. Subject to section 2 herein, Seller does by these presents grant, bargain, sell, convey, transfer, assign, set over, abandon and deliver unto Buyer, with warranty of title, Seller's right, title and interest in and to, all and singular the movable property described on Schedule A attached hereto and made a part hereof (collectively, the "**Property**"). Buyer hereby accepts and purchases for itself and its successors and assigns, and acknowledges due delivery and possession of the Property, to have and to hold said Property unto Buyer, its successors and assigns, forever.

2. Equipment Settings and Licensed Software. Prior to the sale of the Property herein, Buyer shall coordinate with Seller to allow Seller to reset and return any settings of the Property to factory default settings and to remove any software licensed to Seller.

3. Purchase Price. This sale and transfer of the Property is made and accepted for the sum of Eighty Thousand and No/100 Dollars (\$80,000.00), cash in hand paid, the receipt of which is hereby acknowledged and full acquittance and discharge granted therefore, and the parties hereto hereby acknowledging and agreeing that all of said proceeds have been paid to Seller.

4. Waiver of Other Warranties. Buyer specifically takes and accepts the Property "AS IS," "WHERE IS," in its existing condition on the Effective Date. Buyer hereby acknowledges it has inspected the Property and is satisfied with its condition. Buyer hereby waives and releases Seller from any and all claims and/or causes of action which Buyer may have based on vices or defects in the Property, including all improvements, if any, and the component parts thereof. Buyer assumes the risk as to all vices and defects whether latent and/or not discoverable upon simple inspection, including those vices or defects knowledge of which would deter Buyer from accepting this sale. Buyer had the right to have investigated to its

satisfaction individually or by employing experts in the areas of Buyer's concern to make determinations and answer any questions Buyer may have regarding the condition of the Property. Seller makes no warranties, other than the warranty of title stated in Section 1 of this instrument. Except for such warranty, Buyer specifically waives all claims and all causes or rights of action which Buyer has or may have against Seller with respect to the Property including any and all claims to rescind or absolve the sale effected hereby or to demand a reduction, setoff or diminution of the purchase price or any part thereof based upon the existence of any vices or defects. BUYER ACKNOWLEDGES THAT THIS CLAUSE HAS BEEN BROUGHT TO ITS ATTENTION AND THAT IT HAS VOLUNTARILY AND KNOWINGLY CONSENTED TO THE FOREGOING WAIVERS.

5. Limitation of Liability. Neither party shall be responsible for any consequential, incidental, indirect, punitive, or special damages arising out of or relating to this Bill of Sale Agreement.

6. Taxes. All taxes attributable to the Property conveyed herein shall be the obligation of Buyer.

7. Governing Law. This instrument shall be governed by and construed in accordance with the internal laws of the State of Arkansas.

8. Successors and Assigns. This instrument shall inure to the benefit of, and be binding upon, the parties and their respective legal representatives, successors and assigns.

9. Captions. The headings and captions appearing in this instrument have been included solely for convenience and shall not be considered in construing or interpreting this instrument.

10. Entire Agreement. This instrument embodies the entire agreement between Seller and Buyer regarding the conveyance of the Property, and supersedes all prior proposals, agreements and understandings relating to such subject matters.

11. Severability. If any provision of this instrument shall be invalid, illegal or unenforceable in any respect under any applicable law, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby.

12. Modifications and Waivers. This instrument may not be modified or amended, or any of its provisions or benefits waived, except by written instrument executed by the party or parties against whom enforcement of such modification, amendment or waiver is sought.

13. Counterparts. This instrument may be executed and delivered by the parties in multiple counterparts, and each counterpart, when so executed and delivered, shall constitute one and the same instrument.

[Signature Pages Follow]

STATE OF LOUISIANA

PARISH OF POINTE COUPEE

THUS DONE AND SIGNED, in multiple originals, on this ____ day of _____, 2016, but effective as of the Effective Date, in the Parish of Pointe Coupee, State of Louisiana, in the presence of the two undersigned competent witnesses who have hereunto signed their names, together with said Seller and me, Notary, after due reading of the whole.

WITNESSES:

SELLER:

Louisiana Generating LLC,
a Delaware limited liability company

Printed Name: _____

By: _____
Name: _____
Title: _____

Printed Name: _____

STATE OF ARKANSAS

COUNTY OF PULASKI

THUS DONE AND SIGNED, in multiple originals, on this ____ day of _____, 2016, but effective as of the Effective Date, in the County of Pulaski, State of Arkansas, in the presence of the two undersigned competent witnesses who have hereunto signed their names, together with said Buyer and me, Notary, after due reading of the whole.

WITNESSES:

BUYER:

The City of North Little Rock, Arkansas

Printed Name: _____

By: _____

Name: _____

Printed Name: _____

Title: _____