

Ethics Policy

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Prepared by Counsel

Resolution No. 5130

ETHICS POLICY

Sec. 100. Short title.

This policy may be cited as the "Kansas City Board of Public Utilities Ethics Policy," and may be referred to herein as "ethics policy" or "policy."

Sec. 101. Declaration of policy; incorporation of other employment terms and conditions.

It is the policy of the Kansas City Board of Public Utilities, an administrative agency of the Unified Government of Wyandotte County/Kansas City, Kansas ("BPU"), that the proper operation of democratic government requires that elected officials, officials and employees be independent, impartial, and responsible to the people; that utility decisions and policy be made in proper channels of the BPU's structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its municipally owned electric and water utility. In recognition of these goals, an ethics policy for all BPU elected officials, officials and employees is adopted by the BPU Board of Directors, with the stated purpose that the ethics policy shall be interpreted and applied in such a manner so as not to conflict with the adopted personnel policies and collective bargaining agreements, as approved from time to time. In case of conflict, the specific language of the personnel policy or collective bargaining agreement in question shall control.

Sec. 102. Purpose.

- a) The BPU elected Board of Directors recognizes that the representative form of government is dependent on the trust of the people in their public officials.
- b) The ratepayers of the BPU and the citizens of the Unified Government are dependent on their elected officials, officials and employees to preserve the safety, health, and welfare through the fair and impartial enforcement of laws, imposition of taxes, setting of utility rates and expenditures of public funds.
- c) Each ratepayer of the BPU has a right to be assured of impartial and independent judgment from elected officials, officials and employees.
- d) In order to guard against the undue influence or the appearance of improper influence, and ensure public trust in the government, the BPU Board of Directors adopts this ethics policy:
 - (1) To encourage high ethical standards in official conduct by the BPU and its elected officials, officials and employees;

Ethics Policy

- (2) To establish guidelines for ethical standards of conduct for all such elected officials, officials and employees by setting forth those acts or actions that are incompatible with the best interests of the BPU; and
- (3) To serve as a basis for disciplining those who refuse to abide by its terms.

Sec. 103. Definitions.

As used in this ethics policy and all future amendments hereafter adopted, the following words shall have the meanings set forth in this section unless the definition of any word is amended or unless a different meaning is adopted for a particular provision or section.

- (a) *Administrator* means the Ethics Administrator, appointed by the General Manager with approval of the BPU Board of Directors.
- (b) *Affected* in the case of each person, entity or property means reasonably likely to be subjected to a direct economic effect or consequence, either positive or negative, as a result of the vote or decision in question. For instance, a person or entity owning real property, entering into a contract with the BPU or seeking a permit "affected" by a vote or decision such as approval of a contract or granting of a permit. "affected" does not include those persons or entities who are subject to an indirect or secondary effect from official action. Creditors, independent contractors, or guarantors of a person "affected" by a vote or decision are not also deemed to be "affected" by virtue of their relationship with the affected person. The vote or decision need not be the only producing cause of the economic effect or consequence reasonably likely to result. In determining whether a person, entity or property is or was "affected by" a vote or decision, it shall not be necessary to prove the actual existence or occurrence of an economic effect or consequence if such effect or consequence would be reasonably expected to exist or occur. Additionally, a vote or decision to place a matter on a ballot is deemed to affect a person, entity or property to the same extent that the results of the election would affect the person, entity or property.
- (c) *Agency of the BPU* means the Board of Directors, all divisions and departments of the BPU, and committees of the Board of Directors.
- (d) *Business entity* means any person, corporation, partnership, independent contractor, joint Venture organized or existing under the laws of any states, the United States or foreign country transacting commerce for profit.
- (e) *Business with the BPU* means any one (1) or any combination of sales, purchases, leases or contracts to, by, from, or with the BPU, or any agency thereof, involving disbursement of five thousand dollars (\$5,000.00) or more on a cumulative basis during any 12-month period. As of the awarding or execution of a contract or lease, the total then ascertainable consideration thereby committed to be paid, regardless of the period of time over which such payments are to be made, shall be included.
- (f) *Child* includes a child or adopted child, of whatever age.

Ethics Policy

- (g) *A BPU employee* means any person employed by the BPU but does not include independent contractors of the BPU.
- (h) *A BPU official*, unless otherwise expressly defined, means the members of the Board of Directors, the General Manager, and manager and director level employees. For purposes of this ethics policy, a BPU official shall also include the members of the BPU Ethics Commission, members of the Ethics Commission Appointment Panel, and the Ethics Administrator. A BPU official may also be referred to herein as "official."
- (i) *Contribution* means any advance, conveyance, deposit, distribution, gift, loan, or payment of money or any other thing of value but does not include services.
- (j) *Decision* means any resolution or formal action or other matter voted on by the BPU Board of Directors or the BPU Ethics Commission, as well as the discussion or deliberations, which can or may lead to a vote or formal action by that body. A "decision" of a BPU employee means any action in which the employee exercises discretionary authority, including but not limited to the issuance of permits, imposition or collection of fines or fees, authorizations for expenditures, and other non-ministerial acts.
- (k) *The BPU Ethics Commission* means the five-member board appointed by majority vote of the BPU Ethics Commission Appointment Panel, as provided herein. The Ethics Commission may be referred to herein as "Ethics Commission," or "Commission," and members of the BPU Ethics Commission may be referred to as "Members." BPU Ethics Commission members and BPU Ethics Commission Appointment Panel members shall be subject to the provisions of this ethics policy.
- (l) *Elected official* means the members of the BPU Board of Directors.
- (m) *Financial interest* means:
- (1) Ownership of any interest as the result of which the owner has received within the past three years, or is presently receiving, or is entitled to receive in the future more than one thousand dollars (\$1,000.00) per year; or
 - (2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than five (5) percent of a business entity.
- (n) *Gift* means the transfer of anything of economic value regardless of the form without adequate and lawful consideration. "Gift" does not include the solicitation, acceptance, receipt or disposition of political campaign contributions regulated in accordance with the provisions of federal, state or local law regulating the conduct of elections or the receipt of political campaign contributions. Complimentary admissions to special events, including dinners, athletic, charitable, cultural or political events, or any other occasion or entertainment, when furnished or available to be furnished to all similarly situated elected officials, officials and employees are excluded from this definition. The term "gift" as used in this division does not include gifts from a family member or other relative within the fourth degree of consanguinity or affinity.
- (o) *Interest* means any legal or equitable pecuniary interest, whether or not subject to an encumbrance or a condition, which was owned or held, in whole or in part, jointly or

Ethics Policy

severally, directly or indirectly, at any time during each BPU fiscal year (January 1 through December 31). However, "interest" shall not include an interest held solely in the capacity of a personal representative, agent, custodian, fiduciary or trustee, nor an interest in a time or demand deposit in a financial institution, nor an interest in an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed number of dollars either in a lump sum or periodically for life or some other specific period.

- (p) *Ministerial acts* means an act performed in a prescribed manner and not requiring the exercise of any judgment or discretion.
- (q) *Regulate or regulated* means subject to the control or governed by the rules and regulations of the BPU.
- (r) *Substantial interest* means an interest in another person or an entity if:
 - (1) The market is ownership of five (5) percent or more of the voting stock, shares, or market value of the equity of the entity or ownership of five thousand (\$5,000.00) or more of the equity of the entity; or
 - (2) Funds received from the other person or entity either during the previous twelve months or the previous twelve months or the previous calendar year equal or exceed five thousand dollars (\$5,000.00) in salary, bonuses, commissions, or professional fees or twenty thousand dollars (\$20,000.00) in payment for goods, products, or non professional services, or ten (10) percent of the person's gross income during that period, whichever is less; or
 - (3) The person serves as a corporate officer or member of the board of directors or other governing body for the for-profit entity other than a corporate entity owned or created by the BPU; or
 - (4) The person is a creditor, debtor, or guarantor of the other person or entity in an amount of five thousand dollars (\$5,000.00) or more.
 - (5) "Substantial interest" in real property means an interest in real property, which is an equitable or legal ownership with a market value of five thousand dollars (\$5,000.00) or more.

Sec. 104. BPU Ethics Commission.

- (a) The purpose of the BPU Ethics Commission shall be to insure proper implementation, administration and enforcement of the code of ethics, and to review and report on any and all violations of the ethics policy. The BPU Ethics Commission is responsible for conducting open meetings as notified, published and provided by law no less than semi-annually, and deliberating ethical issues, and rendering advisory opinions to the Ethics Administrator. The BPU Ethics Commission shall be comprised of five (5) members with qualifications as described herein residing in Wyandotte County, Kansas, and appointed by the BPU Ethics Commission Appointment Panel, or "Panel," as provided herein. The Panel shall be comprised of three (3) members appointed by a committee of the BPU Board of Directors, established by the President of the BPU Board. Immediately upon approval of this ethics policy, the Panel shall proceed to appoint all

Ethics Policy

member positions of the Ethics Commission as soon as practical, and once all Members have been so appointed, the BPU Ethics Commission shall be deemed fully constituted and effective. Initial BPU Ethics Commission members shall be appointed to serve in terms of staggered length so as to ensure that no more than three (3) member positions shall become vacant in any two (2) year period. Two (2) of the Members shall be initially appointed to serve two (2) year terms and shall be eligible for reappointment to one four (4) year term. The remaining three (3) members shall be appointed to serve one (1) single non-consecutive four-year term. All successive terms shall be for one (1) four-year term, subject to reappointment for one (1) additional four-year term. The Panel shall select one (1) member of the Ethics Commission to serve as Chairperson of the Ethics Commission for a two-year renewable term. A quorum of the Ethics Commission shall consist of no less than three (3) members in attendance at an open meeting, and all decisions of the Ethics Commission shall require no less than three (3) votes for a majority vote of the Ethics Commission.

- (b) In selecting candidates for membership on the Ethics Commission, the BPU Ethics Commission Appointment Panel shall establish procedures relating to selection which at a minimum provide as follows:
- (1) Acceptance of letters or applications of interest from anyone residing in Wyandotte County at the time of their application.
 - (2) Eliminates from consideration persons convicted of a felony or crime of moral turpitude.
 - (3) Persons appointed to the Ethics Commission shall be good moral standing and reputation and shall be subject to the provisions of this ethics policy.
 - (4) The five (5) persons appointed to the BPU Ethics Commission shall be selected to fairly represent the areas of business, labor, legal, education and general public.
 - (5) No present elected officials, officials or employees of BPU or the Unified Government shall be eligible to serve on either the appointment panel or the BPU Ethics Commission, and for a period of at least one (1) year following such service.
- (c) Persons appointed to the BPU Ethics Commission shall have no conflicts of interest as defined in this ethics policy and shall be broadly representative of the diverse populace of Wyandotte County.
- (d) The Ethics Commission shall have the power to recommend ways to improve the ethics policy to the BPU Board of Directors.
- (e) The BPU Ethics Commission and the Ethics Administrator, through the office of the BPU Attorney, may subpoena documents and witnesses before the Ethics Commission.
- (f) The General Manager, with the approval of the BPU Board of Directors, shall appoint an Ethics Administrator as specified in section 105. The Ethics Administrator shall provide administrative services to the Ethics Commission and assist in performing their duties, as the BPU Ethics Commission shall direct.

Ethics Policy

- (g) Whenever requested by a BPU elected official, official or employee, or whenever it deems it in the public interest, the BPU Ethics Commission shall render advisory opinions, in writing, concerning questions of ethics, conflicts of interest, and the applicability of the ethics policy. Copies of the opinion shall be delivered to the Ethics Administrator and members of the BPU Board of Directors. Such opinions may also be released to the public at the discretion of the BPU Ethics Commission with such omissions as may be necessary to protect the confidence and privacy of BPU elected officials, officials and employees.
- (h) The BPU Ethics Commission and the Ethics Administrator shall have the power to make recommendations to the BPU attorney who may initiate and investigate matters deemed appropriate.
- (i) All persons covered by the jurisdiction of the BPU Ethics Commission shall receive training to include familiarization with the ethics oath, the ethics guidelines, the ethics policy and the general subject of local government ethics to be administered by the Ethics Administrator under the direction of the BPU Ethics Commission.
- (j) All elected and appointed officials shall, in a public place, take an ethics oath to be administered by a person authorized by law to administer an oath and sign the ethics pledge.
- (k) Members of the BPU Ethics Commission, the Ethics Administrator and the BPU Ethics Commission Appointment Panel shall be subject to the ethics policy.

Section. 105. Ethics Administrator.

- (a) The Ethics Administrator shall be appointed by the General Manager and approved by the BPU Board of Directors on the basis of a contract and shall function on a part-time basis. The Ethics Administrator shall maintain a fully operational telephone, electronic mail and facsimile capability for receipt of complaints and suggestions. The Ethics Administrator shall have the authority to issue advisory opinions as described herein, to resolve ethical matters and questions relating to interpretation and applicability of the ethics policy, and to conduct investigations into alleged violations of the ethics policy with the assistance of the BPU Attorney. The Ethics Administrator shall make a report of all activities to the Ethics Commission at its regularly scheduled meetings, and shall make a report to the BPU General Manager and the BPU Board of Directors as requested or as required by urgent circumstances of the matters reported.
- (b) Compensation to the Ethics Administrator shall be in the form of billable hours not to exceed the amount usually budgeted for this purpose.
- (c) The Ethics Administrator shall have the authority to recommend to the BPU General Manager that he/she take action against those in violation of the ethics policy, except that no such recommendation shall be made concerning an elected official. Such recommendations may include, but are not limited to:
 - (1) A memorandum from the BPU General Manager to the official or employee placed in their BPU personnel file;

Ethics Policy

- (2) The authority to impose a forced leave with or without pay pursuant to personnel policy and procedure;
 - (3) The authority to recommend demotion or other administrative steps as deemed necessary by the Ethics Administrator with the approval of the BPU General Manager;
 - (4) Upon belief that the factual allegations support the reasonable belief that a crime may have been committed, refer the matter to the BPU Attorney for review and further action.
- (d) The Ethics Administrator shall be responsible for ethics training for all BPU elected officials, officials and employees, and as soon as practical after approval of this ethics policy, shall conduct introductory ethics training courses to ensure that all receive the introductory training course within a reasonable time. Such introductory training shall be mandatory for all BPU elected officials, officials and employees, and all newly elected, appointed or hired officials and employees shall be required to attend training within sixty (60) days of election or appointment but prior to taking office if practical, or within ninety (90) days of hiring. Additionally, all elected officials, officials and employees shall be required to attend continuing ethics training at least once every three (3) years after attending the introductory training.
- (e) Matters assigned to or investigated by the Ethics Administrator shall be deemed personal and/or personnel matters and not disclosed to any person except the accused, the General Manager, members of the BPU Board of Directors and the BPU Attorney.
- (f) The Ethics Administrator shall be subject to the provisions of this ethics policy.

Sec. 106. Advisory opinions.

- (a) Where a member of the public, elected official or employee has a doubt as to the applicability of any provision of this ethics policy to a particular situation, or as to the definition of terms used here, he or she may apply in writing to the Ethics Administrator for any advisory opinion. The requesting party shall have the opportunity to present the facts at issue and the applicability of provisions of the division before such advisory opinion is made. The Ethics Administrator may seek the advice and assistance of the BPU Attorney where interpretation of the law is required.
- (b) No person who relies upon an advisory opinion rendered pursuant to this ethics policy may be found in violation of this ethics policy except where the person relying failed to produce or omitted material facts in the request for the advisory opinion, or where actual conduct deviates from that described in the request.
- (c) Such opinion unless amended or revoked by the Ethics Administrator shall be binding on the BPU in any subsequent actions concerning the BPU elected official, official or employee who sought the opinion and acted on it in good faith, unless material facts were omitted or misstated in the request for the advisory opinion, or where actual conduct deviates from that described in the request.

Ethics Policy

- (d) Any advisory opinion issued at the direction of the Ethics Administrator shall be in writing and made available to the public upon request. However, the name of the person requesting the opinion, the names of the person or business entities mentioned in the opinion, and any factual information that would tend to identify the person or business entities shall be deemed confidential information and shall not be disclosed by the Ethics Administrator or the BPU Board of Directors.

Sec. 107. Distribution and documentation.

- (a) The Ethics Administrator shall cause a copy of this ethics policy to be made available to every elected official, appointed official, candidate for the BPU office, and department head of the BPU. Each department head shall provide each employee with information about the provisions contained in this policy, and shall require that all employees complete ethics training as required herein. Each elected official and member of the Ethics Commission and BPU Ethics Commission Appointment Panel shall, as soon as practical after approval of this ethics policy and the completion of the introductory ethics training, take the Ethics Oath and sign the Ethics Pledge, in a public place. Each employee shall, as soon as practical after approval of this ethics policy and completion of the introductory ethics training, sign the Ethics Pledge.
- (b) Each new elected official, official and employees shall be furnished a copy of this ethics policy and required to read and sign a statement indicating that he or she has read or has had the opportunity to read same. All newly elected officials shall, upon completion of the required ethics training, take the Ethics Oath and sign the Ethics Pledge in a public place, and all newly hired employees shall, upon completion of the required ethics training, sign the Ethics Pledge.
- (c) A copy of the signed ethics statements shall be kept by the office of the General Manager for the elected officials and in the personnel files of each official and employee.

Sec. 108. Conflicts of interest; prohibited interests.

- (a) Except as provided in this section, no BPU elected official, official or employees shall have a substantial interest in:
- (1) Any business entity regulated by or subject to the authority of that official or employee regulated by or subject to the authority of the BPU department with which he or she is affiliated; or
 - (2) Any business entity, which is negotiating or has entered into a contract to do business with the BPU.
- (b) The prohibition of subsection (a) shall not apply to or prevent any BPU elected official, official or employee from:
- (1) Having a substantial interest in a business entity that enters into a contract that is awarded as a result of competitive bidding or sealed bids under the ordinance and policies of the BPU or a contract between the successful bidder and its subcontractors, when the BPU elected official, official or employee's responsibilities and actions do not include participating on behalf of the BPU in

Ethics Policy

any manner in the awarding, approval, formulation, or preparation of any such contract; or

- (2) Having a substantial interest in a business or being associated with or employed by a business entity that represents or is employed by clients or others in transactions or matters before the BPU where the business entity is composed solely of members of a particular profession, including the BPU elected official, official or employee, which are regulated by a code of ethics formally adopted by that profession; or
- (3) Entering into contracts with the BPU pertaining to the acquisition of real estate by the BPU for any public purpose, when the amount of money to be paid by the BPU for the property involved does not exceed the value of the property as established by not less than two (2) component real estate appraiser appointed by the BPU; or
- (4) Appearing, without compensation, before the BPU Board of Directors on behalf of constituents or in the performance of any public, official, or civic obligation or duty; or
- (5) Accepting or receiving any benefit or facility which is provided for or made available to all citizens or residents or classes of citizens or residents under any housing or other general welfare legislation or in the exercise of the polices power; or
- (6) Holding stock or investing in or holding any investment in any business entity whose stock is owned or held on a broad basis by the general public, as long as such an interest constitutes less than three (3) percent of the ownership or investment in the entity; or
- (7) Having deposits of money in any banking institutions made in the ordinary course of business.

Sec. 109. Conflicts of interest; disqualification.

- (a) Except as permitted by state law or a unified government ordinance or BPU resolution, the BPU elected official, official or employee shall disqualify himself or herself and shall not participate in any matter before the BPU, except in the exercise of an administrative duty or ministerial act which does not affect the disposition or decision, if, to his or her knowledge, he or she, his or her spouse, parent, child, brother, or sister may be affected by the result or if any of the following may be affected by the result:
 - (1) Any business in which he or she has a substantial interest;
 - (2) Any business entity in which he or she is an officer, director, trustee, partner or employee or in which he or she knows any of the above listed relatives holds such position;
 - (3) Any business entity with which he or she or, to his or her knowledge, any of the above listed relatives is negotiating or has any arrangement concerning prospective employment;

Ethics Policy

- (4) Any business entity which is party to an existing contract with such an official or employee, or which he or she knows is a party to a contract with any of the above listed relatives, if the contract could reasonably be expected to result in a conflict between the private interests of a BPU elected official, official or employee and his or her official duties;
 - (5) Any business entity, either engaged in a transaction with the BPU regulated by or subject to the authority of the BPU, or in which a directed financial interest is owned by another business entity in which the elected official, official or employee has a direct financial interest;
 - (6) Any business entity which is a creditor or obligee of the elected official, official or employee, or which he or she knows is a creditor or obligee of any of the above listed relatives, with respect to a thing or economic value and which is in a position to affect directly and substantially the interest of the elected official, official or employee or any of the above listed relatives.
- (b) If a disqualification pursuant to subsection (a) leaves anybody with less than a quorum capable of acting, or if the disqualified official or employee is required by law to act or is the only person authorized to act, the disqualified person shall publicly disclose the nature and circumstances of the conflict and may participate or act, provided that such action is first approved by the BPU Board of Directors, or the ethics administrator as under the circumstances may be appropriate.

Sec. 110. Employment restrictions.

- (a) Unless specifically waived by the BPU Board of Directors by majority vote, a BPU official or employee, except a member of the BPU Board of Directors, shall not be employed at the same time as he or she is employed by the BPU or within one (1) year of terminating employment with the BPU by:

- (1) Any business entity regulated by or subject to the authority of that official or employee, or regulated by or subject to the authority of the BPU; or
- (2) Any business entity, which is negotiating or has entered a contract to do business with the BPU.

This prohibition does not apply to an official who is appointed to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to it.

- (b) A former official or employee, except a former member of the BPU Board of Directors, shall not assist or represent a party other than the BPU in case, contract, claim charge, or controversy or other specific matter involving the BPU if that matter is one which the official or employee personally and significantly participated as an official or employee.
- (c) An official or employee shall not assist or represent a party for contingent compensation in any matter before or involving any BPU matter other than in a judicial or quasi-judicial proceeding.

Ethics Policy

- (d) A former official or employee, unless the former official or employee's last annual salary did not exceed twenty-five thousand dollars (\$25,000.00) shall not sell or attempt to sell supplies, services, or construction to the BPU for one (1) year following the date employment ceased. The term "sell" as used herein means signing a bid, proposal, or contract; negotiating a contract; contracting any elected official, official or employee for the purpose of obtaining, negotiating, or discussing changes in specifications, price, cost allowance, or other terms of a contract; settling disputes concerning performance of a contract; or any other activity with a view toward the ultimate consummation of a sale although the actual contract therefore is subsequently negotiated by another person; provided, however, that this section is not intended to preclude a former official or employee from accepting employment with private industry solely because the former official or employee's new employer is a contractor with the BPU, nor shall a former official or employee be precluded from serving as a consultant to the BPU.

Sec. 111. Gifts: solicitation or acceptance.

- (a) An elected official, official or employee shall not solicit any gift or knowingly accept any gift, directly or indirectly, from any person that he or she knows or has reason to know:
- (1) Is doing business with the BPU;
 - (2) Has financial interest that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official's or employee's duty.
- (b) Unless a gift of any of the following would tend to impute the impartiality and the independence of judgment of the elected official, official or employee receiving it or, if of significant value, would give the appearance of doing so, or, if of significant value, the recipient elected official, official or employee believes, or has reason to believe, that it is designed to do so, subsection (a) does not apply to:
- (1) Meals and beverages;
 - (2) Ceremonial gifts or awards;
 - (3) Unsolicited gifts of nominal value or trivial items of information value;
 - (4) Reasonable expenditures for food, travel, lodging, and scheduled entertainment of the elected official, official or employee and spouse for a meeting, that are made in return for participation in a panel or speaking engagement at the meeting;
 - (5) Gifts of tickets or free admission extended to an official or employee to attend a professional or intercollegiate sporting event or charitable, cultural, or political event, if the purpose of such a gift is a courtesy or ceremony extended to the office;
 - (6) A specific gift or class of gifts which the Ethics Administrator exempts from the operation of this section upon finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the BPU and that the gifts is purely personal and private in nature;

Ethics Policy

- (7) Gifts from a person related by blood marriage, or a member of the household;
- (8) Honoraria;
- (c) The Ethics Administrator may by opinion define further exemption from this section as necessary or that are consistent with business practices generally.

Sec. 112. Gratuities and kickbacks.

- (a) *Gratuities.* In addition to violating any other ordinances or any state or federal criminal statute, it shall be a violation of this division and a breach of ethical standards for any person to offer, give, or agree any elected official, official or employee or former elected official, official or employee, or for any elected official, official or employee or former elected official, or employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision or a purchase requisition, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, proceeding, or application, request for ruling, determination of any claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to a solicitation or proposal therefore.
- (b) *Kickbacks.* In addition to violating any other ordinance or any state or federal criminal statutes, it shall be a violation of this ethics policy and a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a contractor, a subcontractor under a contract or order to the prime contractor or higher tier subcontractor, or any person associated therewith, as an inducement for the award of a contract, subcontract, or order.
- (c) *Contract clause.* The prohibition against gratuities and kickbacks contained in this section shall be conspicuously set forth in every contract and solicitation therefore.

Sec. 113. Prohibition against contingent fees.

- (a) *Contingent fees.* In addition to violating any other ordinance or any state or federal criminal statutes, it shall be a violation of this ethics policy and a breach of ethical standards for any person to be retained, or to retain a person, to solicit or secure a BPU contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
- (b) *Representation of contractor.* Every person, before awarded a BPU contract, shall represent, in writing, that such person has not retained anyone in violation of subsection (a) of this section. Failure to do so constitutes a breach of ethical standards and of this ethics policy.
- (c) *Contract clause.* The representation prescribed in subsection (b) of this section shall be conspicuously set forth in every contract and solicitation therefore.

Ethics Policy

Sec. 114. Confidential information.

Other than the discharge of his or her official duties, an elected official, official or employee may not disclose or use for his or her own economic benefit or that of another party confidential information which he or she has required by reason of his or her public position and which is not available to the public.

Sec. 115. Abuse of public office.

- (a) An elected official, official or employee shall not intentionally use the prestige of his or her office for his or her own private gain or that of another except as may be permitted under this ethics policy.
- (b) The performance of usual and customary constituent services, without additional compensation, does not constitute the use of the prestige of office for an elected official's, official's or employee's private gain or that of another.

Sec 116. Permitted and prohibited political activities.

- (a) Application to BPU political activities.
 - (1) The provision of this section of the ethics policy shall apply to full-time, part-time, and temporary officials and employees in both classified and unclassified positions.
 - (2) Employees in activities which are funded in whole or in substantial part by federal funds have the additional restrictions of federal law pursuant to 5 U.S.C. 1501 et seq., hereafter called the "Hatch Act," and may be prohibited from taking an active part in the BPU, unified government, county, state or national elections.
- (b) Permitted political activities. Activities listed in this section are permitted for the BPU officials and employees on their own time or in accordance with declared policies of the BPU. These activities apply to county, state, and national elections and to municipal elections outside the unified government.
 - (1) Each official or employee, including an official or employee subject to the Hatch Act, may:
 - (a) Register and vote in any election;
 - (b) As an individual privately and publicly express an opinion on political subjects and candidates;
 - (c) Be a member of a political party and participate in its activities consistent with this ethics policy;
 - (d) Sign a political nomination or recall petition as an individual;
 - (e) Make a financial contribution to a political party or candidate, including candidates for BPU elective office, in accordance with federal and state campaign finance restrictions;

Ethics Policy

- (f) Participate in connection with a question which is not specifically identified with a political party, such as a constitutional amendment, referendum, or issue of similar character;
 - (g) Display bumper stickers, posters, banners or pamphlets on private property for the endorsement of candidates or issues.
- (2) In addition, except as otherwise provided in this division, an official or employee who is not subject to the Hatch Act may:
- (a) Take an active part in the work and management of any political campaigns;
 - (b) Solicit, receive, or account for funds for a political purpose;
 - (c) Solicit votes in support of, or in opposition to, a political party's office;
 - (d) Initiate or circulate nominating or recall petitions;
 - (e) Serve as a delegate, alternate, or proxy to a political party convention;
 - (f) Drive voters to the polls on behalf of a political party or candidate;
 - (g) Endorse or oppose a candidate for public or political office in a political advertisement, broadcast, campaign literature, or similar material;
 - (h) Seek election to political office as provided in subsection (c)(3) below.
- (c) *Prohibited political activities.*
- (1) *Compelled or coerced political activity.* No official or employee shall be required to participate in or contribute to any political campaign. An official or employee shall not be subject to direct or indirect political influence or coercion, and political affiliation or support is not a condition of employment with the BPU.
 - (2) *Prohibited voluntary political activity –Employment related practices.* No official or employee of the BPU while utilizing equipment or materials of the BPU or while representing himself or herself as an employee of the BPU, or while on duty, on break periods, on BPU property or while in a uniform normally identified with the BPU, except insofar as such representation is necessary for a candidate for public office to disclose a past and current employment status with the BPU shall:
 - (a) Distribute campaign literature;
 - (b) Give, solicit or receive contributions or subscriptions;
 - (c) Promise or perform political services; or
 - (d) Sign or circulate petitions for on behalf of or in opposition to any candidate for public office.

Ethics Policy

- (3) *Prohibited voluntary political activity – Elections.* No official or employee of the BPU shall be a candidate for elective office of the BPU Board of Directors unless that person resigns from employment prior to filing or declaring a candidacy for said elective office with the BPU.
 - (4) *Use of official authority, solicitation of funds.* No official or employee may solicit funds or receive contributions from other officials or employees for political purposes except that candidates for the elected BPU Board of Directors may receive voluntary financial contributions from BPU officials and employees in accordance with state campaign finance restrictions.
 - (5) *Bumper stickers, posters, banners or pamphlets, buttons.* Bumper stickers, posters, banners, pamphlets and buttons may not be displayed on BPU vehicles or property, or by an individual on a BPU work site. However, such articles may be displayed on private vehicles parked in employee parking areas.
 - (6) *Activities prohibited on duty, on BPU property, and/or in uniform.* Activities permitted in subsection (b)(2) above are prohibited when an employee is on duty, including break periods. Such activities are also prohibited on BPU property and when an employee is in a uniform normally identified with BPU.
 - (7) *Use of official title or designation of employment.* An employee shall not use an official BPU title or designate employment with the BPU in political advertisements, endorsements, or speeches. Nothing in this section shall be construed to limit any elected official, official or employee acting at the direction of the General Manager or Board of Directors from making statements on behalf of the BPU to local, regional, state or federal legislative, executive, or administrative bodies, media representatives, or other interested persons or groups. Further, nothing herein shall be construed as prohibiting any person from performing a service on behalf of a person holding elective office in connection with the performance of that elected official's public duties.
- (d) Candidate for elective office.
- (1) A BPU official or employee may seek election to a political office. During this campaign, the employee shall not use an official BPU title in the political campaign, nor shall the person's official authority be used to affect the result of the election. If elected to political office, and such office is clearly inconsistent, incompatible, in conflict with, or inimical to his or her duties as a BPU employee, the employee shall terminate BPU employment prior to assuming the elected position, other than to the BPU Board of Directors.
 - (2) An official or employee may be a candidate for a board such as but not limited to a school board or a library board while retaining active BPU employment and, if elected, may retain the BPU position.
 - (3) An official or employee who becomes a candidate for the BPU Board of Directors shall be terminated upon the declaration of candidacy or filing of candidacy, whichever occurs first, unless said employee or official resigns prior thereto.

Ethics Policy

- (4) An official or employee subject to the Hatch Act may not be a candidate for elective office unless permitted under federal law.
- (5) An official or employee may be a candidate for precinct committee positions or officer of a political party without taking an unpaid leave.

Sec. 117. Contractual violations and recovery.

- (a) If any court of competent jurisdiction or the BPU ethics commission determines that any contract with the BPU involves acts or omissions on the part of any person in violation of any provision of this ethics policy, the contract may be terminated upon such terms and conditions as may be approved by the BPU Board of Directors.
- (b) A BPU official or employee who is subject to the provisions of this ethics policy and who is found by the BPU Ethics Commission to have violated its provisions is subject to disciplinary action by the General Manager or the BPU Board of Directors in accordance with personnel policies, contracts with designated bargaining units, or applicable laws.
- (a) Recovery of value transferred or received in breach of ethical standards.
 - (1) *General provisions.* The value of anything transferred or received in breach of this ethics policy or regulations promulgated thereunder by an official or employee or a non-employee may be recovered from both the official, employee, and/or non-employee.
 - (2) *Recovery of Kickbacks by the BPU.* Upon showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or order thereunder, it shall be conclusively presumed that an amount thereof was included in the price of the subcontract or order and ultimately borne by the BPU and will be recoverable hereunder from the recipient. In addition, said value may also be recovered from the subcontractor making such kickbacks. Recovery from one (1) offending party shall not preclude recovery from other offending parties.

Sec. 118. Whistleblowing.

- (a) No BPU employee or official shall retaliate against any employee or any other person for making a good faith report of violation of state or federal law, rules, or regulations, or other misconduct by government officials or employees, including violations of this ethics policy. Official shall include elected official in this section.
- (b) No BPU employee or official shall prohibit an employee from reporting any violation of law or rules or regulations to any person, agency, or organization.
- (c) No BPU employee or official shall require any employee to give notice to any other BPU employee or official before reporting a violation of law or rules or regulations.
- (d) This section shall not be construed as:

Ethics Policy

- 1) Permitting an employee to leave his or her assigned work areas during normal work hours without following applicable rules and regulations and policies pertaining to leaves;
 - 2) Authorizing an employee to represent the employee's personal opinions as the opinions of the BPU; or
 - 3) Prohibiting disciplinary action of an employee who discloses information which:
 - a) The employee knows to be false or which the employee discloses with reckless disregard for its truth or falsity;
 - b) The employee knows to be prohibited from disclosure under state law or in violation of privacy rights; or
 - c) Is confidential or privileged under statute or court rule.
- (e) Nothing in the ethics policy shall be construed to add to, diminish, or otherwise modify rights or remedies available under the law.
- (f) Any violation of this section by a BPU employee shall be addressed as a violation of the personnel policies or other policies governing personnel.
- (g) Any employee who alleges that disciplinary action was taken against him or her in violation of this section shall be entitled to file a grievance.

Sec. 119. Nepotism.

No person shall be employed by the BPU if that person's spouse, child, sibling or parent is the General Manager or a member of the elected Board of Directors, except that no person employed by the BPU prior to the adoption of this provision shall be terminated for a violation of this section, and provided further that no person employed by the BPU and becoming the spouse of another BPU employee after employment of both by the BPU shall be terminated for a violation of this section.

Sec. 120. Elected officials.

(a) Any elected official found by the BPU Board of Directors to have violated the provisions of this ethics policy may be subject to action as determined by majority vote of the BPU Board of Directors in accordance with the provisions of this ethics policy. Such violations may be sufficient grounds for removal from office and the basis for ouster proceedings, as provided by law.

(b) Elected officials shall complete ethics training as provided herein. Newly elected officials shall complete the introductory ethics training within sixty (60) days of election, but prior to taking office. Upon taking office, newly elected officials shall take the following Ethics Oath in a public place administered by a person authorized to do so under Kansas law: "I do solemnly swear or affirm that I will support the Constitution of the United States and the Constitution of the State of Kansas, and will faithfully discharge the duties of [title], and to abide by and adhere to the provisions of the Kansas City Board of Public Utilities Ethics Policy."

Ethics Policy

(c) In addition to all other duties and responsibilities set forth herein, all elected officials, officials and employees of the BPU will take the Ethics Pledge, to be signed and dated, and to be retained on file in the office of the General Manger for all elected officials, and to be retained in the personnel records for all officials and employees. The Ethics Pledge is set forth herein.

Sec. 121. Effective date, waiver, amendment and revision.

(a) This ethics policy shall be deemed in full force and effect as of January 1, 2004, and all elected officials, officials and employees of the BPU shall be considered bound by its provisions from on and after said date.

(b) This ethics policy may be modified, revised or amended from time to time by a majority vote of the BPU Board of Directors.

(c) The operation and effect of any requirement, rule or prohibition contained in this ethics policy may be waived, to include any provisions for discipline arising from the violation thereof, by a majority vote of the BPU Board of Directors.

Ethics Policy

Ethics Pledge for Elected Officials, Candidates, Officials and Employees of the BPU

I hereby pledge to adhere, to the best of my ability, to the following ethics pledge:

1. I will perform all of my ethical and legal duties, including those specified in this ethics policy in good faith, interpreting them with integrity, sincerity, and a commitment to advance rather than evade or circumvent their spirit and purposes.
2. I will treat my office as a public trust, only using the powers and resources of public office to advance public interests, and not to attain personal benefits or pursue any other private interest incompatible with the public good.
3. I will not reveal confidential or sensitive governmental information, either anonymously or with personal attribution, unless I have good faith belief that there is a compelling public interest in revealing the information.
4. I will neither seek nor accept any form of personal benefit for performing my duties promptly, efficiently or fairly, or for the exercise of appropriate but discretionary representational authority.
5. I will take steps to assure that constituents and others who may be affected by public policies have a fair and equal opportunity to express their concerns, grievances and ideas without regard to their willingness or ability to provide me with personal benefits or political support.
6. I will not use public employees on governmental time or government property for private benefit.
7. I will not use, or allow others to use, the authority, title, or prestige of my office for the attainment of private financial, social or political benefits in any manner that is inconsistent with public interests.
8. I will not, during or after the term of my office, engage in any act or transaction, which reasonably appears to sell or lend the stature and prestige of my office or otherwise creates a general perception that I have exploited my public position for private gain.
9. I will not use or seek to use public facilities or employees, on government time, for political party activities, campaigning, fund raising, or other partisan or personal political activities.
10. I will not accept gratuities or engage in financial relationships that might reasonably be construed to affect my judgment or actions.

Signed: _____

Dated: _____

