

**CONTRACT
MATERIALS AND SUPPLIES REQUIREMENTS
CITY OF HOLYOKE, GAS & ELECTRIC DEPARTMENT**

THIS AGREEMENT made this **8th** day of **December 2021**, by and between

**Koppers Utility and Industrial Products Inc.
237 Forestry Road
Eutawville, SC 29048**

hereinafter called the Supplier, and City of Holyoke Gas & Electric Department, a municipal corporation duly established which owns and operates its own Municipal Gas and Electric Plants, hereinafter called the Department.

WITNESSETH, that the Department and Supplier, in consideration of one dollar and other valuable considerations and covenants, and agreements herein contained, agree as follows:

1. THE SUPPLIER agrees to deliver all of the Department's and participating Northeast Public Power Association (NEPPA) member utilities' requirements of the following materials during the period hereinafter set forth:

various sizes and quantities of CCA w/Climbing Additive (CA) treated wood poles

in strict accordance with the Department's *Wood Poles Annual Contract Invitation for Bid dated October 2021 and HG&E Addendum No. 1 dated October 20, 2021* attached hereto and made a part hereof by reference.

Supplier specifically acknowledges that the materials are being sold subject to all implied warranties and warranties imposed by law, including, but not limited to, merchantability and fitness for a particular purpose.

2. THE TIME of delivery of the said materials to be as needed during the period beginning with the **1st day of January 2022** and ending with the **31st day of December 2023** with an option to extend the contract for up to one (1) additional year (through December 31, 2024). The option to extend the contract is at the sole discretion of the Department.

3. THE MANNER AND PLACE of delivery of the said materials shall be **in accordance with the Department and participating NEPPA member utilities' specific delivery requirements as stipulated in the Wood Poles Annual Contract Invitation for Bid dated October 2021.**

4. THE DEPARTMENT and participating NEPPA member utilities agree to pay to the Supplier in full consideration for the materials rendered as aforesaid, the prices as quoted in Supplier's proposal dated **November 22, 2021**. The Department Payment Terms are as set forth in the Payment Terms section of the Wood Poles Annual Contract Invitation for Bid attached hereto and made a part hereof by reference. Member Utilities' payment terms shall be provided to Supplier upon placement of any order.

5. ASSIGN, SUBLET OR TRANSFER This contract or the right to receive payment thereunder shall not be assigned, sublet or transferred, in any way, in whole or in part except with the written consent of the Department.

6. FAILURE TO PERFORM If the Supplier shall commence a voluntary case or similar proceeding under any applicable bankruptcy, insolvency or other similar law now or hereafter in effect, or shall consent to

City of Holyoke Gas & Electric Department
99 Suffolk Street, Holyoke, MA 01040
Phone: (413) 536-9300, Fax: (413) 552-0392
www.hged.com

the entry of any order for relief in an involuntary case or similar proceeding under any such law, or shall consent to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator (or other similar official) or Supplier of for any substantial part of its property, or shall make any general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any action in furtherance of any of the foregoing, or if the Supplier at any time should refuse or neglect or fail to supply the materials as stipulated above, or fail in the performance of any of the terms of this contract, the Department may terminate this contract by a three-day written notice to the Supplier to deliver the said materials.

If the Supplier should at any time fail or be unable to deliver the materials stipulated above, for any cause whatsoever, the Department may, without terminating this contract, obtain such materials from any other source until such time as the Supplier is again able and willing to deliver the materials stipulated above, and the amount of such materials so obtained from another source may, at the election of the Department, be deducted from the balance of the materials to be delivered under this contract.

In the event that this contract is terminated as herein provided, or in the event that the Department obtains materials from another source without terminating the contract as herein provided, the Supplier shall pay to the Department the excess of the price paid for such materials over and above the contract price herein provided, together with all expenses incurred by the Department as a result of the Supplier's failure to perform or deliver.

7. TIME OF THE ESSENCE In all matters and cases concerning the performance of this contract, time shall be considered to be of the essence.

8. WAIVER Any waiver by the Department of any violation or omission of any particular item of this contract or of the specifications attached hereto and made a part hereof, shall be considered, always, only as a waiver of the particular violation or omission and shall not at any time be considered or construed as a waiver of any term or condition of this contract or of the requirements of the specifications.

9. TESTS AND INSPECTION The Department shall have the right to subject all materials to such inspection or tests as the Department deems reasonable or necessary, and to reject any and all materials, which do not conform to the specifications attached hereto.

All materials shall remain the property of the Supplier until delivered by the Supplier and accepted by the Department. Strict performance of the terms of this contract is expressly provided for, and substantial performance of the terms of the contract in good faith and without willful failure shall not be deemed sufficient performance. Strict performance shall be deemed the essence of the contract and shall be deemed expressly contracted for by the parties.

10. INTERPRETATION This contract shall be interpreted and construed in accordance with the laws of the Commonwealth of Massachusetts.

11. STATUTES OR ORDINANCES Wherever applicable, the Supplier shall conform to and comply with all provisions of the United States Code and the General Laws of Massachusetts, including, but not limited to, Chapters 7, 30, 62C, 111F and 149 of the General Laws of Massachusetts, including all applicable Federal and State Regulations, and with all applicable provisions of any other statute or ordinance. All such statutes, regulations or ordinances, including the said Chapters 7, 30, 62C 111F and 149, shall be deemed to be a part of this contract.

12. MSDS FORMS Materials or supplies delivered under this contract must be accompanied by any necessary form relating to toxic or hazardous substances including, but not limited to, Material Safety Data Sheets required by the United States Code or the General Laws of Massachusetts. For guidance, the Supplier will

use the Massachusetts Substance List (MSL) described in Chapter 111F of the General Laws of Massachusetts and 105 CMR 670.

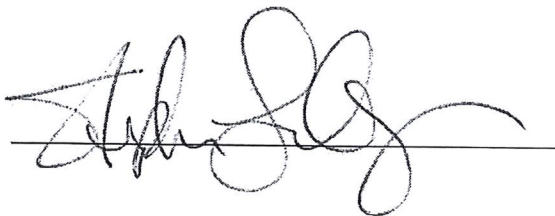
13. MASSACHUSETTS TAX LAWS The Supplier certifies that it has complied with all Federal and Massachusetts Tax Laws, including, but not limited to, Section 49A of Chapter 62C of the General Laws of Massachusetts.

14. INDEMNIFICATION Supplier indemnifies, holds harmless and defends with Department counsel, Department and its agents and employees from any and all claims, damages, losses and expenses, including without limitation attorneys and expert fees, arising directly or indirectly out of or resulting from performance of this contract.

15. INSURANCE The Supplier shall, at all times, shall provide protection to the Department by adequate insurance against all claims for injuries and damage to persons or property which may occur upon the premises during the progress of the work. Supplier shall, before the start of the contract, provide by insurance for the payment of compensation and the furnishing of benefits under General Laws, Chapter 152, to all persons to be employed under the contract and Supplier shall continue such insurance in full force and effect during the term of the contract and waiving subrogation in favor of the Department. Supplier shall furnish sufficient proof of compliance with this requirement in the form of a certificate of insurance naming the Department as an 'Additional Insured' before this contract shall be in effect. No cancellation of such insurance whether by the insurer or by the insured shall be valid unless written notice thereof is given by the party proposing cancellation to the other party, and to the Department at least 30 days prior to the intended effective date thereof, which date shall be expressed in said notice. Failure to provide and continue in force such insurance shall be deemed a material breach of contract and shall operate as an immediate termination thereof. Any notice of cancellation shall comply with the requirements of General Laws, Chapter 149, Sec. 34A.

IN WITNESS WHEREOF, has signed this instrument, and the City of Holyoke Gas & Electric Department has caused the signature of its Manager, James M. Lavelle, to be hereto affixed for the Municipal Gas & Electric Commission.

IN PRESENCE OF:



SUPPLIER

**KOPPERS UTILITY AND INDUSTRIAL
PRODUCTS INC.**

By 
Jeremiah Lundgren, Northeast Sales Manager

Date: 12/28/2021

**CITY OF HOLYOKE
GAS AND ELECTRIC DEPARTMENT**



By 
James M. Lavelle, Manager

Date: 1/13/22

Jeremiah Lundgren
Northeast Sales Manager
Utility and Industrial Products



Koppers Utility and Industrial Products
Tel 860 661 2172
lundgrenjb@koppers.com
www.koppers.com

November 22, 2021

Mr. James Lavelle, Manager
Holyoke Gas & Electric
99 Suffolk Street, Holyoke, MA 01040

Subject: Invitation for Bid (IFB) 2022 Wood Poles Annual Contract

Re: Exceptions

Mr. Lavelle,

Thanks for the opportunity to participate in this bid.

Koppers has deemed it necessary to provide information regarding exceptions to the 2022 Wood Poles Annual Contract. The following information is provided to clarify the exceptions contained in our bid package.

- We have elected to quote on the preservative option of CCA-CA only for SYP poles and have elected to not quote on DCOI preservative. We were informed by the manufacturer of DCOI (Viance) that they will not be selling DCOI to Koppers. We are assuming the reason Viance has elected not to sell to Koppers is because of possible supply issues or they have reached exclusive arrangements with some of our competitors.
- **Contract Term and Execution** – Note that if KUIP is awarded the bid, the contract will be in effect from January 1, 2022 – December 31, 2023 and HG&E has the sole option to extend the contract for 1 additional year through December 31, 2024. Also, if KUIP is awarded the bid, the contract needs to be executed within 10 days after HG&E delivers their Notice of Award.
- **Freight/Delivery** – All freight must be prepaid, FOB Destination. Supplier is responsible for all freight and cartage until the poles are received in good condition, field tested, and accepted by HG&E.

Koppers is appreciative for the opportunity to extend our already successful alliance with NEPPA. We look forward to hearing from you on the award of the new contract.

Regards,

Jeremiah Lundgren
Northeast Sales Manager

CW
11/23/

Wood Poles Annual Contract

BID FORM - FROM: Koppers Utility and Industrial Products

Mr. James M. Lavelle, Manager
 Holyoke Gas & Electric
 99 Suffolk Street
 Holyoke, MA 01040

Dear Mr. Lavelle:

Pricing is hereby submitted for the 2022 Wood Poles Annual Contract in accordance with the Invitation for Bid and Bidding Documents dated October 2021, for Holyoke Gas & Electric and NEPPA Member Utilities. The undersigned Bidder proposes and agrees, if this Bid is accepted, to furnish the poles in full accordance with the Bidding Documents for the prices and within the times indicated in this Bid.

**Raw material cost of pole ONLY, not including freight, ** Freight cost ONLY (this is not a surcharge but, actual freight costs per shipment)*

Southern Yellow Pine – DCOI Treated Poles with Framing*			
		BASE PRICE	Pole Weight
A	30' Class 5	\$ _____	
B	35' Class 4	\$ _____	
C	40' Class 2	\$ _____	
D	40' Class 3	\$ _____	
E	45' Class 1	\$ _____	
F	45' Class 2	\$ _____	
G	45' Class 3	\$ _____	
H	50' Class 2	\$ _____	
I	50' Class 1	\$ _____	
Delivery Time:			

* As of 11/23/2021
 DCOI is not available
 to Koppers per chemical
 manufacturer *

Southern Yellow Pine – CCA-CA Treated Poles with Framing*			
		BASE PRICE	Pole Weight
A	30' Class 5	\$ 153.61	696 lbs
B	35' Class 4	\$ 226.44	798 lbs
C	40' Class 2	\$ 373.43	1692 lbs
D	40' Class 3	\$ 324.44	1470 lbs
E	45' Class 1	\$ 520.41	2398 lbs
F	45' Class 2	\$ 451.56	2046 lbs
G	45' Class 3	\$ 390.65	1770 lbs
H	50' Class 2	\$ 542.41	2626 lbs
I	50' Class 1	\$ 617.09	3029 lbs
Delivery Time:		1-2 weeks ARO	

NOTE: Refer to attached zone map of New England where all zones are 50 miles in width.

Minimum Shipment 40,000 lbs.

Cost for on-site staked delivery \$ 200/hour for trucks time

Freight Cost per Shipment Per Zone **	
Zone 1	\$ 1100.00
Zone 2	\$ 1100.00
Zone 3	\$ 1100.00
Zone 4	\$ 1700.00
Zone 5	\$ 1950.00
Zone 6	\$ 2465.00
Zone 7	\$ 2750.00

Independent Inspection Cost per Pole	
Pole Size	COST
25'	\$ 4.50
30'	\$ 4.50
35'	\$ 4.50
40'	\$ 5.00
45'	\$ 5.00
50'	\$ 6.00
55'	\$ 7.00
60'	\$ 8.00

State here the name of the Independent Inspection Party if this is not A. W. Williams Inspection Co.

Fuel Price Adjustments – IF prices above are NOT firm.

Fuel Price Adjustments if any, shall be based on the U.S. Average weekly retail-on-highway diesel prices as found at the web site www.eia.doe.gov for the gasoline & diesel fuel update. The current web address is <https://www.eia.gov/petroleum/gasdiesel/>

The base price of freight cost per shipment per zone shall increase or decrease over the term of the contract based on changes in these indices. *(If the change in base index is left blank, it is understood that prices are firm over the contract period and cannot be changed until the contract term has expired).*

Fuel Base Index: **\$3.182** **Date of Index:** **10/11/21**

(This is the basis for freight cost included on the pricing provided above)

Change in Freight Cost below based on a +/- 0.10 Change in Base Index

(For example, if a \$0.02 change was stated above and the factor at Zone 2 was \$15 for every \$0.02 change in the fuel base index, then if the new weekly index on 1/2/2022 was 3.21 a \$45 additional charge to Zone 2's freight cost would result for all orders delivered that week until the new weekly index comes out for 1/9/2022. Similarly, if the new weekly index is 3.14, then a credit of \$60 to freight cost would result).

State how much freight cost will change for any change in Base Index:

(For example, if the freight cost per shipment for Zone 2 is \$800 and for every \$0.02 change in the Base Index, the freight cost per shipment changes by \$25, then \$25 should be written in the space provided for Zone 2).

ZONE 1 \$ 10.00

ZONE 2 \$ 10.00

ZONE 3 \$ 10.00

ZONE 4 \$ 10.00

ZONE 5 \$ 10.00

ZONE 6 \$ 10.00

ZONE 7 \$ 10.00

Other remarks / conditions on the Fuel Price Adjustment:

Delivery

In accordance with the Invitation for Bid, Bidder is to confirm, by initialing, that Bidder will begin delivery on **January 1, 2022:** JB

If Bidder cannot meet the Delivery Schedule stated in this Invitation for Bid, indicate by what date deliveries can begin: _____

State how much notice is required to setup: Ready to go immediately

Time of Delivery and Addenda

Bidder agrees that the materials will be furnished and ready for final payment in accordance with the Invitation for Bid on or before the dates or within the number of calendar days indicated in the Invitation for Bid. Pursuant to your Invitation for Bid dated October, 2021 for the material described therein of which this Bid Form is part, the undersigned Bidder hereby certifies and represents that it has examined and thoroughly understands the Bidding Documents including the following:

Addenda No.	Date

Bid Documents

The undersigned Bidder, having made such examinations and reached such understandings:

- a. Accepts the obligation of a Bidder incurred by submitting this Bid.
- b. Agrees to the rights reserved to HG&E set forth in the Invitation for Bid.
- c. Proposes to execute the Contract and/or accept a Purchase Order as set forth in the Invitation for Bid, of which this Bid Form is a part.
- d. Warrants that the bid submitted is in accordance with the following Provisions as marked:

(1) the material or equipment offered, if any, is in accordance with the requirements of the Invitation for Bid, notwithstanding any variation between descriptive material furnished and the requirements of the Invitation for Bid. ☐

(2) the material or equipment offered, if any, deviates from the requirements of the Invitation for Bid, as listed on the specifications on the following form under the heading "EXCEPTIONS." Exceptions shall be noted in the spaces provided of this Bid Form. If additional space is needed or space is not provided, Bidders must use their company letterhead and attach it to the Bid Form. The attachment shall become part of the Bid Form ☒

If the Bidder fails to check one of the foregoing Provisions, the bid will be considered on the basis of Provision (1) and the Bidder agrees to contract in accordance with that Provision.

If the Bidder checks (2) above, the Bidder recognizes that HG&E reserves the right to reject its bid on the basis of any exceptions listed. Exceptions may deem a bidder non-responsive. HG&E may, at its own discretion, reject any bid in whole or in part on the basis of exceptions taken.

Exceptions (if applicable) Exceptions will be considered in the award of the contract (attach separate sheet if necessary).

See attached exception page

Experience and Qualifications

The following statements of experience, personnel, equipment and general qualifications of the Bidder are submitted as a part of the Bid and the Bidder represents and guarantees the truthfulness and accuracy thereof:

1. Our organization has been in business continuously from 1954.
2. Our organization has had experience in manufacturing equipment comparable to that required under the proposed Invitation to Bid, a prime manufacturer, for 67 years, as a component manufacturer for ____ years or as an equipment supplier for ____ years.

Bidder's Acknowledgements

Bidder accepts all of the terms and conditions of the Bidding Documents, including without limitation, those dealing with the disposition of Bid Deposit (if applicable). The Bid will remain subject to acceptance for sixty (60) days after the bid opening, or for such longer period of time that Bidder may agree to in writing upon request of HG&E.

Bidder's Certifications

Bidder certifies that, under the penalties of perjury, to the best of Bidder's knowledge and belief, that Bidder has filed all State tax returns and paid all State taxes required by law. Bidder certifies that Bidder is in compliance with all laws of the Commonwealth of Massachusetts relating to taxes and reporting of employees and Contractors, and withholding and remitting child support.

Approval of a contract or other agreement will not be granted unless this Certificate is completed and signed by the Bidder. This request is made under MGL c.62C s.49A, which provides, among other matters, that "no contract or other agreement for the purpose of providing goods, services or real estate to any of the foregoing agencies shall be entered into, renewed or extended with any person unless such person certifies in writing, under the penalties of perjury, that he/she has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support".

If a Foreign Corporation (Supplier that is incorporated outside the State of Massachusetts), Bidder certifies Bidder will file with bid submittal to HG&E a certificate of the State Secretary stating that Bidder's corporation has complied with requirements of Section 15.03 of subdivision A of Part 15 of Chapter 156D and further has filed all annual reports required by Sections 16.22 of subdivision B of Part 16 of said Chapter 156D and the date of such compliance.

This request is made under the authority of the Massachusetts General Laws, Chapter 30 Section 39L.

Bidder certifies that Bidder has not solicited or induced any individual or entity to refrain from bidding; and Bidder certifies that Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph:

- "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process;
- "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of the HG&E, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive HG&E of the benefits of free and open competition;
- "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of HG&E, a purpose of which is to establish bid prices at artificial, non-competitive levels; and

- "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

Attachments to this Bid:

The following documents are attached to and made a condition of this Bid:

- Completed and signed Supplier Information Form.
- Certificate of Corporate Vote (*naming the individual signing the bid an authorized signatory of the company, also referred to as 'Certified Copy of Resolution of Board of Directors'*).
- If Foreign Corporation, State of MA Foreign Corporation Certificate.
- Statement of the Bidders' ability to maintain an adequate stock for prompt truck delivery.

Bid Submittal

The Bid is submitted by:

KOPPERS UTILITY + INDUSTRIAL PRODUCTS
(Print Name of Firm Submitting this Bid)

Date 11/22/2021

JEREMIAH LUNDGREN, NORTHEAST SALES MANAGER
(Print Name of person Submitting this Bid)

Phone#: 860-661-2172

237 Forestry Rd, Eutawville, SC 29048
(Business Address)

Email: lundgrenjb@koppers.com

Eutawville, SC 29048
(City, State, and zip code)

SS# or Federal ID #: 57-1066065

If BIDDER is:

An Individual

By _____

(Firm's Name)

Doing Business as _____

License or Registration Number: _____

Business Address: _____

Phone #: _____ Fax# _____

A Partnership

By _____
(Firm's Name)

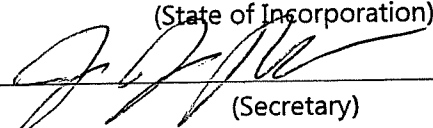
License or Registration Number: _____

Business Address _____

Phone # _____ Fax: _____

A Corporation

By Koppers Utility & Industrial Products, Inc.
(Corporation's Name)
South Carolina
(State of Incorporation)

Attest 
(Secretary)

License or Registration Number: _____

Business Address: 237 Forestry Rd, Eatonsville, SC 29048

Phone # 803 492 7728 Fax: _____

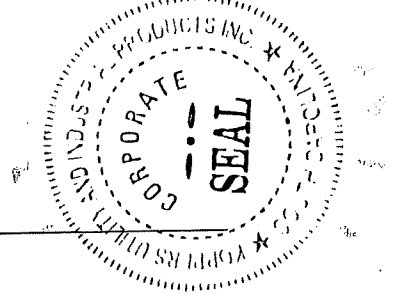
A Joint Venture

By _____
(Printed or Typed Name)

(Address)

Phone # _____ Fax: _____

(Each joint venture must sign. The manner of signing for each individual, partnership and corporation that is a party to the joint venture should be in the manner indicated above.)



End of Section

SUPPLIER INFORMATION FORM

NOTE: A copy of the Supplier's/Contractor's W-9 Form must be submitted with this form.

SECTION 1 GENERAL INFORMATION

Legal Business Name: KOPPERS Utility and Industrial Products

Payment Remit To Address: P.O. Box 741859

City, State and Zip Code: Atlanta, GA 30374-1859

Business Address (if different than Remit To Address):

237 Forestry Rd, Eutawville SC 29048

City, State and Zip Code:

Telephone No: 800-661-2172 Fax No: 910-371-3137

Email Address: lundgrenjb@koppers.com Web Address: www.koppers.com

Federal Tax ID No. 57-1066065

SECTION 2 CONTACT INFORMATION

Primary Contact Name: Jeremiah Lundgren A/R Contact Name: Carolyn Todd

Primary Email Address: lundgrenjb@koppers.com A/R Email Address: toddcs@koppers.com

Primary Telephone No: 800-661-2172 A/R Telephone No: 412-227-2154

SECTION 3 COMPANY PRINCIPALS (attach separate sheet if necessary)

Name and Title: See Attached Sheet

Name and Title:

SECTION 4 ELECTRONIC CAPABILITIES

Can the supplier accept Purchase Orders via email? IF yes, email address: lundgrenjb@koppers.com

Form Completed By: Jeremiah Lundgren Title: Northeast Sales Manager

KOPPERS UTILITY AND INDUSTRIAL PRODUCTS, INC.

UNANIMOUS WRITTEN CONSENT
OF THE BOARD OF DIRECTORS

April 7, 2021

The undersigned, being all of the directors of the Board of Directors (the "Directors") of Koppers Utility and Industrial Products, Inc., a South Carolina corporation (the "Company"), do hereby waive any and all requirements for the notice and holding of a meeting of the Directors and consent to and adopt the following resolutions as the actions of the Company, which shall have the same force and effect as actions taken at a duly called meeting, and do hereby direct that this certificate be filed in the Company's minute book:

Officers

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the persons named below are hereby elected to the respective office of the Company indicated below, to serve in such office in accordance with the Bylaws:

<u>Office</u>	<u>Name</u>
President	James J. Healey
CFO	Michael J. Zugay
Secretary	Stephanie L. Apostolou
Treasurer	Jimmi Sue Smith
Assistant Treasurer	Bradley A. Pearce

RESOLVED FURTHER, that all acts heretofore done by any of such Authorized Officers or any directors of the Company, on or prior to the date of the meeting of the Board at which the foregoing resolutions were adopted, in connection with the matters encompassed by the foregoing resolutions be, and the same hereby are, in all respects ratified, confirmed, approved, and adopted as acts by and on behalf of the Company.

The foregoing Unanimous Written Consent has been signed by the directors of the Company and filed with the minutes of the proceedings of the Board of Directors of the Company.


James J. Healey

Stephanie L. Apostolou

Michael J. Zugay

KOPPERS UTILITY AND INDUSTRIAL PRODUCTS, INC.

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OF THE BOARD OF DIRECTORS

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James J. Healey


Stephanie L. Apostolou


Michael J. Zugay

