



CHICAGO TRANSIT AUTHORITY

567 West Lake Street
Chicago, Illinois 60661-1498
TEL 312 664-7200
www.transitchicago.com

February 16, 2009

Subject: Requisition No. B09OP00962 – Request for Proposals (RFP) for the Purchase of Natural Gas for Exclusive Use by the Chicago Transit Authority for a Period of up to 24 Months, Beginning May 1, 2009.

Re: Addendum # 1

Dear Proposer:

Attached please find Addendum # 1, modifying the issued RFP. Please take this information into account when preparing your proposal.

The Chicago Transit Authority is seeking proposals for the subject procurement. Proposal packages are to be delivered to:

By Mail
Chicago Transit Authority
Bid Office
P.O. Box 7554
Chicago, IL 60680-7554

Delivery Service or In Person Drop-off
Chicago Transit Authority
Bid Office – 2nd Floor
567 W. Lake Street
Chicago, IL 60661-1498

Due Date: Wednesday, February 25, 2009

Proposals must be received before 3:30p.m., Chicago time

**Ten (10) copies of the Technical section,
Four (4) copies of the DBE section,
Ten (10) copies of the Price section are to be provided**

Your response should identify the requisition (RFP) number, the name of the project, the name and address of your firm, a contact person and phone number in each section.

Where proposals are sent by delivery service or delivered in-person to the CTA Bid Office, the bidders shall be responsible for their delivery to the Bid Office before the advertised date and hour for the opening of bids. If the delivery of the proposal is delayed beyond the date and hour set for the bid opening, proposals thus delayed will not be considered and will be returned unopened. The Bid Office hours are Monday through Friday from 8:00 am to 4:30 pm Chicago time, except holidays.

Proposals received after that time will be returned unopened.

There are no other changes at this time.

Sincerely,

Robert Conlin
General Manager, Purchasing

cc: File B09OP00962

ADDENDUM NO. 1

The following change is made to Section VI, Evaluation Process and Criteria, paragraph three, of the issued RFP. The paragraph shall read as follows:

In reviewing and evaluating the responses to this RFP, the CTA will engage in a two-tier evaluation. The first-tier will consider the following criteria, and will be evaluated on a pass/fail basis:

1. **Proposer demonstrates it has a credit rating equal to or greater than BBB- by Standard & Poor's Rating Group or Baa3 by Moody's Investor Services.**

If a credit rating is not available, the CTA will determine the Proposer's financial viability through a review of the Proposer's audited financial statements. Proposers should provide their most recent audited financial statements, with three years historical data, as well as current interim financial statements.

This new paragraph supersedes the previously issued language in paragraph three, Section VI, Evaluation Process and Criteria, of the RFP, and will be used for evaluation purposes.

The time for question has passed. No further questions will be accepted for this procurement. There are no other changes at this time.

CHICAGO TRANSIT AUTHORITY
Advertisement for Professional Services

Proposals will be received for the following by Chicago Transit Authority at the Bid Office - 2nd Floor, 567 W. Lake, Chicago, Illinois, 60661-1498, until 3:30 P.M. on Wednesday, February 25, 2009:

Req. No.B090P00962

Request for Proposals (RFP) for the Purchase of Natural Gas for Exclusive Use by the Chicago Transit Authority for a period of up to twenty - four (24) months, beginning May 1, 2009.

For additional information, please contact, James Kozicki, Procurement Administrator, 312/681-2671.

Written Questions regarding this RFP will be accepted no later than 4:30p.m., Friday, February 13, 2009. You may send written questions to James Kozicki via fax at 312-681-2497 or e-mail at jkozicki@transitchicago.com.

The contractor will be required to furnish certified copies of any and all Insurance Policies required in relation to this contract prior to CTA's execution.

Chicago Transit Authority hereby gives notice that it will affirmatively ensure that in regard to any contract entered into pursuant to this advertisement, Disadvantaged Business Enterprise and Women's Business Enterprise will be afforded full opportunity to submit responses to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

PLEASE NOTE: Where proposals are sent by mail, delivery service or delivered in-person to the CTA Bid Office, the bidders shall be responsible for their delivery only to the Bid Office before the advertised due date and hour for the proposals. The Bid Office hours are Monday through Friday from 8:00 a.m. to 4:30 p.m. Chicago time, except holidays.

The right is reserved to accept any proposal or to reject any and all proposals.

All inquiries should be directed to and copies of the documents

(2)

obtained from the Bid Office - 2nd Floor, 567 W. Lake, Chicago,
Illinois 60661-1498.

CHICAGO TRANSIT AUTHORITY

By: Robert Conlin
General Manager, Purchasing

February 4, 2009



**Chicago Transit Authority
Requisition No. B09OP00962
Request for Proposal (RFP)**

For

**Purchase of Natural Gas for Exclusive Use
by the Chicago Transit Authority
for a Period of up to Twenty-Four Months
Beginning May 1, 2009**

Confidentiality and Non-Disclosure: Firms requiring additional assistance shall only contact James Kozicki, Procurement Administrator, at (312) 681 – 2671, Robert Conlin, General Manager, at (312) 681-2420, or Marina Popovic, Acting Vice President, Purchasing and Warehousing. Firms, including all team sub-consultants, who contact any CTA personnel, either verbally or in writing, concerning this solicitation package, are in violation of the procedures for this procurement and any submitted proposals may be disqualified. Prime consultants are required to sign and submit the “Non-Disclosure Statement Consultant” (Appendix J) with the proposal and to require all sub-consultants to submit signed copies of the “Non-Disclosure Statement Sub-Consultant” (Appendix J) with the proposal.

ISSUED BY
Purchasing Department, Chicago Transit Authority
P.O. Box 7560, Chicago, IL 60680-7560
Marina Popovic, Acting Vice President, Purchasing & Warehousing
Dorval R. Carter, Jr., Acting President
Carole L. Brown, Chairman

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I. CTA BACKGROUND INFORMATION

The Chicago Transit Authority (CTA or Authority) operates the nation's second largest public transportation system serving the City of Chicago and 40 surrounding suburbs. On an average weekday, nearly 1.6 million rides are taken on the CTA. CTA has approximately 2,200 buses that operate over 154 routes and 2,529 route miles. Buses provide about 1 million customer trips a day and serve approximately 12,000 posted bus stops. CTA's 1,190 rapid transit cars operate over eight routes and 242 miles of track. CTA trains provide about 600,000 customer trips each day and serve 144 stations.

Chicago is one of the few cities in the world that provides rapid transit service to two major airports. From the downtown area, the CTA's Blue Line takes customers to O'Hare International Airport, and the Orange Line takes customers to Midway Airport.

Additional information about the CTA and its services are available at www.transitchicago.com.

II. INTRODUCTION

The Authority requires the purchase and use of natural gas in its day-to-day operations.

The Authority is seeking qualified firms to supply natural gas and manage storage daily to the larger CTA facilities. The Authority currently utilizes approximately 820,000 decatherms (Dths) of natural gas per year. Approximately 763,000 Dths are provided through Peoples Gas across 24 accounts, while approximately 66,000 Dths are provided through NICOR across 5 accounts.

The Authority will consider Proposals from firms that have proven experience in supplying, managing and balancing daily natural gas supplies in Chicago for end use customers, and who have the staff and capabilities sufficient to service a large agency such as CTA.

Firms are invited to submit proposals to perform the work as described in Section III, Scope of Services, and Section IV, Contract and General Requirements. Issuance of this RFP does not commit the CTA to pay any costs incurred in the preparation of this proposal. All proposals are to be valid for a period of at least 21 days from the due date of the proposal. The CTA reserves the right to reject any or all proposals, to negotiate with any or all firms, and to award a contract to the Proposer whose initial proposal is most advantageous to the CTA, without further discussion or negotiations.

III. SCOPE OF SERVICES

The purpose and objective of this RFP is to procure natural gas supply for exclusive use by the Authority from a single Contractor. The Contractor should, at a minimum, perform the following functions:

1. Provide Firm, Full Requirements Gas Supply

Contractor must provide firm, full requirements gas supply to the Chicago citygate for receipt by People's Gas and Nicor for the Authority's account in sufficient quantities to meet the requirements of the Authority's gas utility accounts listed in this RFP.

2. Gas Storage Management and Reporting

Contractor must manage CTA's gas storage rights behind Peoples Gas and Nicor to keep balances within tolerances required by the utilities throughout the period of the gas contract. Contractor should provide a report to CTA on a monthly basis showing volumes of gas consumed, gas purchased from Contractor, fuel use and/or unaccounted for gas, and the flow of gas into and out of storage. Such report should be prepared and delivered to CTA within a reasonable period of days following the conclusion of each month's business.

3. Invoice Delivery

The Contractor must be willing and able to submit invoices to CTA for the sale of gas supply in compliance with the provisions of the gas contract and to deliver such invoices to email address(es) specified by the Authority.

4. Pricing

The Contractor shall provide the Authority with natural gas to be purchased at a multiplier (fixed for the term of the Agreement) to the Platt's First of Month Gas Daily index. The Contractor shall provide for this multiplier in the attached Price Proposal (Appendix K).

Throughout the term of the Agreement, the Contractor shall provide the Authority with the ability to establish a fixed price for natural gas for some or all of its monthly gas purchase quantities, for some or all months in the contract term. The Contractor shall provide the fees it intends to charge, if any, for any fixed price transaction in the attached Price Proposal (Appendix K). Contractor should provide a description of its procedure for performing such transactions as part of its Comprehensive Plan.

Proposers must complete the attached Price Proposal (Appendix K).

5. Transition Plan

The Authority is currently obtaining natural gas supply through a third-party supplier for its larger Peoples Gas and Nicor accounts. The Contractor shall be responsible for ensuring a seamless transition of natural gas supply service upon the effective date of this contract.

6. Online Access

Though not a requirement of this RFP, the Authority would like to know if Contractor will provide CTA with access to a password protected website where CTA can review reports showing its historical gas usage and cost, historical invoices, and/or other reports or information pertinent to CTA's purchase of natural gas supply from Contractor. A sample of reports available online, if any, may be submitted as part of Contractor's Comprehensive Plan.

IV. CONTRACT AND GENERAL REQUIREMENTS

This RFP is intended to provide the Authority with a means to purchase natural gas supply for its exclusive use. One contract will be established with the successful Proposer as a result of this RFP. The Authority has provided the contract document it intends to use, attached hereto, as Appendix A, which is in the form of the NAESB agreement with accompanying Special Provisions. The CTA's prime objective is to obtain a qualified Contractor that has the experience, stability, and infrastructure to meet the Authority's needs for natural gas supply in its day-to-day operations.

Throughout the term of the contract, the Authority's General Manager, Treasury Management, or his designee, will be solely responsible for authorizing and entering into monthly, or any other term, fixed price agreements per the terms of the Base Contract for Sale and Purchase of Natural Gas (Appendix A).

V. PROPOSAL SUBMITTAL REQUIREMENTS - A complete proposal must consist of the following:

Responses shall be submitted with material printed on one side only on standard 8 1/2" x 11" letter-size paper with removable binding on the left hand side. The use of expensive papers and binding and elaborate submittals is discouraged. All proposals submitted become the property of the CTA and no materials will be returned. The Technical Proposal and Price Proposal must each be submitted under separate cover. Documents with original signatures should be clearly labeled as such. Proposers are advised to adhere to the submittal requirements. The proposal must contain sufficient detail to enable the CTA to evaluate it according to the criteria outlined in Section VI, Evaluation Process and Criteria. **Failure to comply may be cause for rejection of the submission.** The Chicago Transit Authority reserves the right to accept or reject any or all submittals or parts thereof.

Part I. TECHNICAL PROPOSAL
(Ten copies – 8 1/2" x 11" paper)

A. Cover Letter

The cover letter must contain a commitment to provide the services described in this RFP. Each cover letter must include the name and signature of a representative of the Contractor who is authorized to negotiate and enter into a binding contract with the Authority.

B. Comprehensive Plan

The Proposer shall submit a comprehensive plan on how the CTA's goals will be accomplished as described in Section III, Scope of Services, of this RFP. This plan must explain how the firm will utilize its experience, products, skills, and resources to meet the CTA's schedule and provide all services as specified.

The comprehensive plan should detail all information the Proposer deems necessary in fulfilling the Scope of Work, including the procedure utilized by the Authority in establishing a fixed price for some or all of its natural gas supply requirements, as described in Section III of this document.

C. Qualifications of Firm

The Proposer should provide the names and contact information for at least three customers with whom Contractor has contracted to Gas Supply service. Customers should have gas supply volume requirements at least as large as the Authority's requirements listed in this RFP. The Authority may contact the customers in order to confirm such customers' satisfaction with Contractor's service.

The Proposer must be a registered supplier of natural gas with both Peoples Gas and Nicor, and licensed to do business in Illinois.

The ideal Proposer will hold a credit rating of **at least BBB-** by Standard and Poor's Rating Group, or **Baa3** by Moody's Investor Services, Inc.

D. Table of Exceptions

Proposers must submit a Table of Exceptions which shall clearly identify a detailed list of exceptions to the Scope of Work, or any other part of this RFP, including the attached Base Contract for Sale and Purchase of Natural Gas (Appendix A). The list shall be in table format and must identify the page, section number, provision, and the specific exception, non-conformance and/or substitute language proposed. Failure to identify any specific items of non-compliance will result in the Authority assuming compliance. Identification of an exception does not commit the Authority to comply with the exception. The Authority, at its sole discretion, may reject any exception listed within the proposal.

Part II. PRICE PROPOSAL
(Ten copies – 8 1/2" x 11" paper)

A fully completed **Price Proposal** must include the following items:

1. The completed Price Proposal form found in Appendix K;
2. Completed copies of Appendices D through J; and
3. Any proposed subcontractors should complete Appendices E, I, and J.

VI. EVALUATION PROCESS AND CRITERIA

All proposals will be evaluated by the CTA, which reserves the right to make an award or choose not to award to any Proposer, on the basis of greatest benefit to the CTA. The evaluation will be based primarily on the Technical Proposal and the Price Proposal. However, the CTA may also require oral presentations by those Proposers deemed by the Authority to be competitive. All responses will be evaluated by one or more evaluation committee(s). Following the evaluation process the CTA may select Proposers in the competitive range for negotiations.

The CTA reserves the right to reject any or all proposals or parts thereof as it deems necessary for any reason. In addition, the CTA reserves the right to make an award to **one** responsible Proposer whose offer best conforms to the requirements of this solicitation and is most advantageous to the CTA.

In reviewing and evaluating the responses to this RFP, the CTA will engage in a two-tier evaluation. The first-tier will consider the following criteria, and will be evaluated on a pass/fail basis:

1. **Proposer demonstrates it has a credit rating equal to or greater than BBB- by Standard & Poor's Rating Group or Baa3 by Moody's Investor Services.**

Firms that pass the first-tier evaluation will be evaluated against the second-tier criteria. The second-tier will consider the following factors, in order of relative importance:

2. **Price Proposal (Section V, Part II); and**
3. **Comprehensive Plan (Section V, Part I, B).**

The CTA retains the right to require additional information, including revised pricing information, from any Proposer, and to determine the veracity of the information in the proposal. A proposal found to be based on *inaccurate or misrepresented* information may be dismissed from further consideration.

Firms in the competitive range, in contention for negotiations or award of the contract, may be required to make oral presentations. Failure of a firm to report for an oral presentation will be cause for dismissal of that firm's proposal from further consideration, provided that the CTA has given adequate notice for the Proposer to prepare the oral presentation. **However, the CTA is not required to hear a presentation from any Proposer and reserves the right to issue a contract based on the initial proposal submitted without providing any firm an opportunity for oral presentations or negotiations.**

After determining which Proposers are in the competitive range, the CTA may conduct negotiations with those Proposers to discuss any deficiencies in their proposal and to ensure that the Proposers fully understand all the requirements of this RFP and have, or can obtain, the required equipment, personnel, materials, software, hardware, or services. Should negotiations occur, the CTA may issue to those Proposers remaining in the competitive range an invitation to submit a **Best and Final Offer (BAFO)**. The BAFO will reflect the Proposer's final cost/price proposal to the CTA based on all the clarifications to the proposed Scope of Work included in the oral presentation and/or negotiations.

Appendix A

Base Contract for Sale and Purchase of Natural Gas

Base Contract for Sale and Purchase of Natural Gas

This Base Contract is entered into as of the following date: _____. The parties to this Base Contract are the following:

_____ and _____
Duns Number: _____ Duns Number: _____
Contract Number: _____ Contract Number: _____
U.S. Federal Tax ID Number: _____ U.S. Federal Tax ID Number: _____

Notices:

Attn: _____ Attn: _____
Phone: _____ Fax: _____ Phone: _____ Fax: _____

Confirmations:

Attn: _____ Attn: _____
Phone: _____ Fax: _____ Phone: _____ Fax: _____

Invoices and Payments:

Attn: _____ Attn: _____
Phone: _____ Fax: _____ Phone: _____ Fax: _____

Wire Transfer or ACH Numbers (if applicable):

BANK: _____ BANK: _____
ABA: _____ ABA: _____
ACCT: _____ ACCT: _____
Other Details: _____ Other Details: _____

This Base Contract incorporates by reference for all purposes the General Terms and Conditions for Sale and Purchase of Natural Gas published by the North American Energy Standards Board. The parties hereby agree to the following provisions offered in said General Terms and Conditions. In the event the parties fail to check a box, the specified default provision shall apply. Select only one box from each section:

Section 1.2 ? Oral (default) Transaction ? Written Procedure	Section 7.2 ? 25 th Day of Month following Month of Payment Date delivery (default) ? _____ Day of Month following Month of delivery
Section 2.5 ? 2 Business Days after receipt (default) Confirm ? _____ Business Days after receipt Deadline	Section 7.2 ? Wire transfer (default) Method of ? Automated Clearinghouse Credit (ACH) Payment ? Check
Section 2.6 ? Seller (default) Confirming ? Buyer Party ? _____	Section 7.7 ? Netting applies (default) Netting ? Netting does not apply
Section 3.2 ? Cover Standard (default) Performance ? Spot Price Standard Obligation	Section 10.3.1 ? Early Termination Damages Apply (default) Early Termination ? Early Termination Damages Do Not Apply Damages
Note: The following Spot Price Publication applies to both of the immediately preceding.	Section 10.3.2 ? Other Agreement Setoffs Apply (default) Other Agreement ? Other Agreement Setoffs Do Not Apply Setoffs
Section 2.26 ? Gas Daily Midpoint (default) Spot Price ? _____ Publication	Section 14.5 Choice Of Law _____
Section 6 ? Buyer Pays At and After Delivery Point Taxes (default) ? Seller Pays Before and At Delivery Point	Section 14.10 ? Confidentiality applies (default) Confidentiality ? Confidentiality does not apply
? Special Provisions Number of sheets attached: _____	
? Addendum(s) : _____	

IN WITNESS WHEREOF, the parties hereto have executed this Base Contract in duplicate.

Party Name _____

Party Name _____

By _____
Name: _____
Title: _____

By _____
Name: _____
Title: _____

General Terms and Conditions

Base Contract for Sale and Purchase of Natural Gas

SECTION 1. PURPOSE AND PROCEDURES

1.1. These General Terms and Conditions are intended to facilitate purchase and sale transactions of Gas on a Firm or Interruptible basis. "Buyer" refers to the party receiving Gas and "Seller" refers to the party delivering Gas. The entire agreement between the parties shall be the Contract as defined in Section 2.7.

The parties have selected either the "Oral Transaction Procedure" or the "Written Transaction Procedure" as indicated on the Base Contract.

Oral Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Any Gas purchase and sale transaction may be effectuated in an EDI transmission or telephone conversation with the offer and acceptance constituting the agreement of the parties. The parties shall be legally bound from the time they so agree to transaction terms and may each rely thereon. Any such transaction shall be considered a "writing" and to have been "signed". Notwithstanding the foregoing sentence, the parties agree that Confirming Party shall, and the other party may, confirm a telephonic transaction by sending the other party a Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means within three Business Days of a transaction covered by this Section 1.2 (Oral Transaction Procedure) provided that the failure to send a Transaction Confirmation shall not invalidate the oral agreement of the parties. Confirming Party adopts its confirming letterhead, or the like, as its signature on any Transaction Confirmation as the identification and authentication of Confirming Party. If the Transaction Confirmation contains any provisions other than those relating to the commercial terms of the transaction (i.e., price, quantity, performance obligation, delivery point, period of delivery and/or transportation conditions), which modify or supplement the Base Contract or General Terms and Conditions of this Contract (e.g., arbitration or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 1.3 but must be expressly agreed to by both parties; provided that the foregoing shall not invalidate any transaction agreed to by the parties.

Written Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Should the parties come to an agreement regarding a Gas purchase and sale transaction for a particular Delivery Period, the Confirming Party shall, and the other party may, record that agreement on a Transaction Confirmation and communicate such Transaction Confirmation by facsimile, EDI or mutually agreeable electronic means, to the other party by the close of the Business Day following the date of agreement. The parties acknowledge that their agreement will not be binding until the exchange of nonconflicting Transaction Confirmations or the passage of the Confirm Deadline without objection from the receiving party, as provided in Section 1.3.

1.3. If a sending party's Transaction Confirmation is materially different from the receiving party's understanding of the agreement referred to in Section 1.2, such receiving party shall notify the sending party via facsimile, EDI or mutually agreeable electronic means by the Confirm Deadline, unless such receiving party has previously sent a Transaction Confirmation to the sending party. The failure of the receiving party to so notify the sending party in writing by the Confirm Deadline constitutes the receiving party's agreement to the terms of the transaction described in the sending party's Transaction Confirmation. If there are any material differences between timely sent Transaction Confirmations governing the same transaction, then neither Transaction Confirmation shall be binding until or unless such differences are resolved including the use of any evidence that clearly resolves the differences in the Transaction Confirmations. In the event of a conflict among the terms of (i) a binding Transaction Confirmation pursuant to Section 1.2, (ii) the oral agreement of the parties which may be evidenced by a recorded conversation, where the parties have selected the Oral Transaction Procedure of the Base Contract, (iii) the Base Contract, and (iv) these General Terms and Conditions, the terms of the documents shall govern in the priority listed in this sentence.

1.4. The parties agree that each party may electronically record all telephone conversations with respect to this Contract between their respective employees, without any special or further notice to the other party. Each party shall obtain any necessary consent of its agents and employees to such recording. Where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, the parties agree not to contest the validity or enforceability of telephonic recordings entered into in accordance with the requirements of this Base Contract. However, nothing herein shall be construed as a waiver of any objection to the admissibility of such evidence.

SECTION 2. DEFINITIONS

The terms set forth below shall have the meaning ascribed to them below. Other terms are also defined elsewhere in the Contract and shall have the meanings ascribed to them herein.

2.1. "Alternative Damages" shall mean such damages, expressed in dollars or dollars per MMBtu, as the parties shall agree upon in the Transaction Confirmation, in the event either Seller or Buyer fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer.

2.2. "Base Contract" shall mean a contract executed by the parties that incorporates these General Terms and Conditions by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required herein and any Special Provisions and addendum(s) as identified on page one.

2.3. "British thermal unit" or "Btu" shall mean the International BTU, which is also called the Btu (IT).

- 2.4. "Business Day" shall mean any day except Saturday, Sunday or Federal Reserve Bank holidays.
- 2.5. "Confirm Deadline" shall mean 5:00 p.m. in the receiving party's time zone on the second Business Day following the Day a Transaction Confirmation is received or, if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped after 5:00 p.m. in the receiving party's time zone, it shall be deemed received at the opening of the next Business Day.
- 2.6. "Confirming Party" shall mean the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.
- 2.7. "Contract" shall mean the legally-binding relationship established by (i) the Base Contract, (ii) any and all binding Transaction Confirmations and (iii) where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, any and all transactions that the parties have entered into through an EDI transmission or by telephone, but that have not been confirmed in a binding Transaction Confirmation.
- 2.8. "Contract Price" shall mean the amount expressed in U.S. Dollars per MMBtu to be paid by Buyer to Seller for the purchase of Gas as agreed to by the parties in a transaction.
- 2.9. "Contract Quantity" shall mean the quantity of Gas to be delivered and taken as agreed to by the parties in a transaction.
- 2.10. "Cover Standard", as referred to in Section 3.2, shall mean that if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract, then the performing party shall use commercially reasonable efforts to (i) if Buyer is the performing party, obtain Gas, (or an alternate fuel if elected by Buyer and replacement Gas is not available), or (ii) if Seller is the performing party, sell Gas, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the nonperforming party; the immediacy of the Buyer's Gas consumption needs or Seller's Gas sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the nonperforming party.
- 2.11. "Credit Support Obligation(s)" shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, a performance bond, guaranty, or other good and sufficient security of a continuing nature.
- 2.12. "Day" shall mean a period of 24 consecutive hours, coextensive with a "day" as defined by the Receiving Transporter in a particular transaction.
- 2.13. "Delivery Period" shall be the period during which deliveries are to be made as agreed to by the parties in a transaction.
- 2.14. "Delivery Point(s)" shall mean such point(s) as are agreed to by the parties in a transaction.
- 2.15. "EDI" shall mean an electronic data interchange pursuant to an agreement entered into by the parties, specifically relating to the communication of Transaction Confirmations under this Contract.
- 2.16. "EFP" shall mean the purchase, sale or exchange of natural Gas as the "physical" side of an exchange for physical transaction involving gas futures contracts. EFP shall incorporate the meaning and remedies of "Firm", provided that a party's excuse for nonperformance of its obligations to deliver or receive Gas will be governed by the rules of the relevant futures exchange regulated under the Commodity Exchange Act.
- 2.17. "Firm" shall mean that either party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.
- 2.18. "Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.
- 2.19. "Imbalance Charges" shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter's balance and/or nomination requirements.
- 2.20. "Interruptible" shall mean that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure, with no liability, except such interrupting party may be responsible for any Imbalance Charges as set forth in Section 4.3 related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by Transporter.
- 2.21. "MMBtu" shall mean one million British thermal units, which is equivalent to one dekatherm.
- 2.22. "Month" shall mean the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.
- 2.23. "Payment Date" shall mean a date, as indicated on the Base Contract, on or before which payment is due Seller for Gas received by Buyer in the previous Month.
- 2.24. "Receiving Transporter" shall mean the Transporter receiving Gas at a Delivery Point, or absent such receiving Transporter, the Transporter delivering Gas at a Delivery Point.
- 2.25. "Scheduled Gas" shall mean the quantity of Gas confirmed by Transporter(s) for movement, transportation or management.
- 2.26. "Spot Price" as referred to in Section 3.2 shall mean the price listed in the publication indicated on the Base Contract, under the listing applicable to the geographic location closest in proximity to the Delivery Point(s) for the relevant Day; provided, if there is no single price published for such location for such Day, but there is published a range of prices, then the Spot Price shall be the average

of such high and low prices. If no price or range of prices is published for such Day, then the Spot Price shall be the average of the following: (i) the price (determined as stated above) for the first Day for which a price or range of prices is published that next precedes the relevant Day; and (ii) the price (determined as stated above) for the first Day for which a price or range of prices is published that next follows the relevant Day.

2.27. "Transaction Confirmation" shall mean a document, similar to the form of Exhibit A, setting forth the terms of a transaction formed pursuant to Section 1 for a particular Delivery Period.

2.28. "Termination Option" shall mean the option of either party to terminate a transaction in the event that the other party fails to perform a Firm obligation to deliver Gas in the case of Seller or to receive Gas in the case of Buyer for a designated number of days during a period as specified on the applicable Transaction Confirmation.

2.29. "Transporter(s)" shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point pursuant to a particular transaction.

SECTION 3. PERFORMANCE OBLIGATION

3.1. Seller agrees to sell and deliver, and Buyer agrees to receive and purchase, the Contract Quantity for a particular transaction in accordance with the terms of the Contract. Sales and purchases will be on a Firm or Interruptible basis, as agreed to by the parties in a transaction.

The parties have selected either the "Cover Standard" or the "Spot Price Standard" as indicated on the Base Contract.

Cover Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the positive difference, if any, between the purchase price paid by Buyer utilizing the Cover Standard and the Contract Price, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller for such Day(s); or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in the amount equal to the positive difference, if any, between the Contract Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually taken by Buyer for such Day(s); or (iii) in the event that Buyer has used commercially reasonable efforts to replace the Gas or Seller has used commercially reasonable efforts to sell the Gas to a third party, and no such replacement or sale is available, then the sole and exclusive remedy of the performing party shall be any unfavorable difference between the Contract Price and the Spot Price, adjusted for such transportation to the applicable Delivery Point, multiplied by the difference between the Contract Quantity and the quantity actually delivered by Seller and received by Buyer for such Day(s). Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

Spot Price Standard:

3.2. The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas shall be recovery of the following: (i) in the event of a breach by Seller on any Day(s), payment by Seller to Buyer in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; or (ii) in the event of a breach by Buyer on any Day(s), payment by Buyer to Seller in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Seller and received by Buyer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the applicable Spot Price from the Contract Price. Imbalance Charges shall not be recovered under this Section 3.2, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 4.3. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

3.3. Notwithstanding Section 3.2, the parties may agree to Alternative Damages in a Transaction Confirmation executed in writing by both parties.

3.4. In addition to Sections 3.2 and 3.3, the parties may provide for a Termination Option in a Transaction Confirmation executed in writing by both parties. The Transaction Confirmation containing the Termination Option will designate the length of nonperformance triggering the Termination Option and the procedures for exercise thereof, how damages for nonperformance will be compensated, and how liquidation costs will be calculated.

SECTION 4. TRANSPORTATION, NOMINATIONS, AND IMBALANCES

4.1. Seller shall have the sole responsibility for transporting the Gas to the Delivery Point(s). Buyer shall have the sole responsibility for transporting the Gas from the Delivery Point(s).

4.2. The parties shall coordinate their nomination activities, giving sufficient time to meet the deadlines of the affected Transporter(s). Each party shall give the other party timely prior Notice, sufficient to meet the requirements of all Transporter(s) involved in the transaction, of the quantities of Gas to be delivered and purchased each Day. Should either party become aware that actual deliveries at the Delivery Point(s) are greater or lesser than the Scheduled Gas, such party shall promptly notify the other party.

4.3. The parties shall use commercially reasonable efforts to avoid imposition of any Imbalance Charges. If Buyer or Seller receives an invoice from a Transporter that includes Imbalance Charges, the parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's receipt of quantities of Gas greater than or less than the Scheduled Gas, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Scheduled Gas, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer.

SECTION 5. QUALITY AND MEASUREMENT

All Gas delivered by Seller shall meet the pressure, quality and heat content requirements of the Receiving Transporter. The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Receiving Transporter.

SECTION 6. TAXES

The parties have selected either "Buyer Pays At and After Delivery Point" or "Seller Pays Before and At Delivery Point" as indicated on the Base Contract.

Buyer Pays At and After Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas at the Delivery Point(s) and all Taxes after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

Seller Pays Before and At Delivery Point:

Seller shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any government authority ("Taxes") on or with respect to the Gas prior to the Delivery Point(s) and all Taxes at the Delivery Point(s). Buyer shall pay or cause to be paid all Taxes on or with respect to the Gas after the Delivery Point(s). If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof.

SECTION 7. BILLING, PAYMENT, AND AUDIT

7.1. Seller shall invoice Buyer for Gas delivered and received in the preceding Month and for any other applicable charges, providing supporting documentation acceptable in industry practice to support the amount charged. If the actual quantity delivered is not known by the billing date, billing will be prepared based on the quantity of Scheduled Gas. The invoiced quantity will then be adjusted to the actual quantity on the following Month's billing or as soon thereafter as actual delivery information is available.

7.2. Buyer shall remit the amount due under Section 7.1 in the manner specified in the Base Contract, in immediately available funds, on or before the later of the Payment Date or 10 Days after receipt of the invoice by Buyer; provided that if the Payment Date is not a Business Day, payment is due on the next Business Day following that date. In the event any payments are due Buyer hereunder, payment to Buyer shall be made in accordance with this Section 7.2.

7.3. In the event payments become due pursuant to Sections 3.2 or 3.3, the performing party may submit an invoice to the nonperforming party for an accelerated payment setting forth the basis upon which the invoiced amount was calculated. Payment from the nonperforming party will be due five Business Days after receipt of invoice.

7.4. If the invoiced party, in good faith, disputes the amount of any such invoice or any part thereof, such invoiced party will pay such amount as it concedes to be correct; provided, however, if the invoiced party disputes the amount due, it must provide supporting documentation acceptable in industry practice to support the amount paid or disputed. In the event the parties are unable to resolve such dispute, either party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

7.5. If the invoiced party fails to remit the full amount payable when due, interest on the unpaid portion shall accrue from the date due until the date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

7.6. A party shall have the right, at its own expense, upon reasonable Notice and at reasonable times, to examine and audit and to obtain copies of the relevant portion of the books, records, and telephone recordings of the other party only to the extent reasonably necessary to verify the accuracy of any statement, charge, payment, or computation made under the Contract. This right to examine, audit, and to obtain copies shall not be available with respect to proprietary information not directly relevant to transactions under this Contract. All invoices and billings shall be conclusively presumed final and accurate and all associated claims for under- or overpayments shall be deemed waived unless such invoices or billings are objected to in writing, with adequate explanation and/or documentation, within two years after the Month of Gas delivery. All retroactive adjustments under Section 7 shall be paid in full by the party owing payment within 30 Days of Notice and substantiation of such inaccuracy.

7.7. Unless the parties have elected on the Base Contract not to make this Section 7.7 applicable to this Contract, the parties shall net all undisputed amounts due and owing, and/or past due, arising under the Contract such that the party owing the greater amount shall make a single payment of the net amount to the other party in accordance with Section 7; provided that no payment required to be made pursuant to the terms of any Credit Support Obligation or pursuant to Section 7.3 shall be subject to netting under this Section. If the parties have executed a separate netting agreement, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 8. TITLE, WARRANTY, AND INDEMNITY

8.1. Unless otherwise specifically agreed, title to the Gas shall pass from Seller to Buyer at the Delivery Point(s). Seller shall have responsibility for and assume any liability with respect to the Gas prior to its delivery to Buyer at the specified Delivery Point(s). Buyer shall have responsibility for and any liability with respect to said Gas after its delivery to Buyer at the Delivery Point(s).

8.2. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT AS PROVIDED IN THIS SECTION 8.2 AND IN SECTION 14.8, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.

8.3. Seller agrees to indemnify Buyer and save it harmless from all losses, liabilities or claims including reasonable attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

8.4. Notwithstanding the other provisions of this Section 8, as between Seller and Buyer, Seller will be liable for all Claims to the extent that such arise from the failure of Gas delivered by Seller to meet the quality requirements of Section 5.

SECTION 9. NOTICES

9.1. All Transaction Confirmations, invoices, payments and other communications made pursuant to the Base Contract ("Notices") shall be made to the addresses specified in writing by the respective parties from time to time.

9.2. All Notices required hereunder may be sent by facsimile or mutually acceptable electronic means, a nationally recognized overnight courier service, first class mail or hand delivered.

9.3. Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful transmission. If the day on which such facsimile is received is not a Business Day or is after five p.m. on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party. Notice via first class mail shall be considered delivered five Business Days after mailing.

SECTION 10. FINANCIAL RESPONSIBILITY

10.1. If either party ("X") has reasonable grounds for insecurity regarding the performance of any obligation under this Contract (whether or not then due) by the other party ("Y") (including, without limitation, the occurrence of a material change in the creditworthiness of Y), X may demand Adequate Assurance of Performance. "Adequate Assurance of Performance" shall mean sufficient security in the form, amount and for the term reasonably acceptable to X, including, but not limited to, a standby irrevocable letter of credit, a prepayment, a security interest in an asset or a performance bond or guaranty (including the issuer of any such security).

10.2. In the event (each an "Event of Default") either party (the "Defaulting Party") or its guarantor shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) otherwise become bankrupt or insolvent (however evidenced); (iv) be unable to pay its debts as they fall due; (v) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (vi) fail to perform any obligation to the other party with respect to any Credit Support Obligations relating to the Contract; (vii) fail to give Adequate Assurance of Performance under Section 10.1 within 48 hours but at least one Business Day of a written request by the other party; or (viii) not have paid any amount due the other party hereunder on or before the second Business Day following written Notice that such payment is due; then the other party (the "Non-Defaulting Party") shall have the right, at its sole election, to immediately withhold and/or suspend deliveries or payments upon Notice and/or to terminate and liquidate the transactions under the Contract, in the manner provided in Section 10.3, in addition to any and all other remedies available hereunder.

10.3. If an Event of Default has occurred and is continuing, the Non-Defaulting Party shall have the right, by Notice to the Defaulting Party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date (the "Early Termination Date") for the liquidation and termination pursuant to Section 10.3.1 of all transactions under the Contract, each a "Terminated Transaction". On the Early Termination Date, all transactions will terminate, other than those transactions, if any, that may not be liquidated and terminated under applicable law or that are, in the reasonable opinion of the Non-Defaulting Party, commercially impracticable to liquidate and terminate ("Excluded Transactions"), which Excluded Transactions must be liquidated and terminated as soon thereafter as is reasonably practicable, and upon termination shall be a Terminated Transaction and be valued consistent with Section 10.3.1 below. With respect to each Excluded Transaction, its actual termination date shall be the Early Termination Date for purposes of Section 10.3.1.

The parties have selected either "Early Termination Damages Apply" or "Early Termination Damages Do Not Apply" as indicated on the Base Contract.

Early Termination Damages Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, (i) the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract and (ii) the Market Value, as defined below, of each Terminated Transaction. The Non-Defaulting Party shall (x) liquidate and accelerate each Terminated Transaction at its Market Value, so that each amount equal to the difference between such Market Value and the Contract Value, as defined below, of such Terminated Transaction(s) shall be due to the Buyer under the Terminated Transaction(s) if such Market Value exceeds the Contract Value and to the Seller if the opposite is the case; and (y) where appropriate, discount each amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant Terminated Transactions).

For purposes of this Section 10.3.1, "Contract Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the Contract Price, and "Market Value" means the amount of Gas remaining to be delivered or purchased under a transaction multiplied by the market price for a similar transaction at the Delivery Point determined by the Non-Defaulting Party in a commercially reasonable manner. To ascertain the Market Value, the Non-Defaulting Party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas futures contracts, quotations from leading dealers in energy swap contracts or physical gas trading markets, similar sales or purchases and any other bona fide third-party offers, all adjusted for the length of the term and differences in transportation costs. A party shall not be required to enter into a replacement transaction(s) in order to determine the Market Value. Any extension(s) of the term of a transaction to which parties are not bound as of the Early Termination Date (including but not limited to "evergreen provisions") shall not be considered in determining Contract Values and Market Values. For the avoidance of doubt, any option pursuant to which one party has the right to extend the term of a transaction shall be considered in determining Contract Values and Market Values. The rate of interest used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.

Early Termination Damages Do Not Apply:

10.3.1. As of the Early Termination Date, the Non-Defaulting Party shall determine, in good faith and in a commercially reasonable manner, the amount owed (whether or not then due) by each party with respect to all Gas delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges relating to such deliveries and receipts (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract.

The parties have selected either "Other Agreement Setoffs Apply" or "Other Agreement Setoffs Do Not Apply" as indicated on the Base Contract.

Other Agreement Setoffs Apply:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff (i) any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any Credit Support Obligation relating to the Contract; or (ii) any Net Settlement Amount payable to the Defaulting Party against any amount(s) payable by the Defaulting Party to the Non-Defaulting Party under any other agreement or arrangement between the parties.

Other Agreement Setoffs Do Not Apply:

10.3.2. The Non-Defaulting Party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 10.3.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the Defaulting Party, the Non-Defaulting Party may setoff any Net Settlement Amount owed to the Non-Defaulting Party against any margin or other collateral held by it in connection with any Credit Support Obligation relating to the Contract.

10.3.3. If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 10.3.2 is unascertained, the Non-Defaulting Party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the Non-Defaulting Party accounting to the Defaulting Party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 10.3.2 shall be discounted to net present value in a commercially reasonable manner determined by the Non-Defaulting Party.

10.4. As soon as practicable after a liquidation, Notice shall be given by the Non-Defaulting Party to the Defaulting Party of the Net Settlement Amount, and whether the Net Settlement Amount is due to or due from the Non-Defaulting Party. The Notice shall include a written statement explaining in reasonable detail the calculation of such amount, provided that failure to give such Notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the Defaulting Party against the Non-Defaulting Party. The Net Settlement Amount shall be paid by the close of business on the second Business Day following such Notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount shall accrue from the date due until the

date of payment at a rate equal to the lower of (i) the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.

10.5. The parties agree that the transactions hereunder constitute a "forward contract" within the meaning of the United States Bankruptcy Code and that Buyer and Seller are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.

10.6. The Non-Defaulting Party's remedies under this Section 10 are the sole and exclusive remedies of the Non-Defaulting Party with respect to the occurrence of any Early Termination Date. Each party reserves to itself all other rights, setoffs, counterclaims and other defenses that it is or may be entitled to arising from the Contract.

10.7. With respect to this Section 10, if the parties have executed a separate netting agreement with close-out netting provisions, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 11. FORCE MAJEURE

11.1. Except with regard to a party's obligation to make payment(s) due under Section 7, Section 10.4, and Imbalance Charges under Section 4, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in Section 11.2.

11.2. Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections or wars; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a governmental authority having jurisdiction. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

11.3. Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path, Firm transportation is also curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, Seller's ability to sell Gas at a higher or more advantageous price than the Contract Price, Buyer's ability to purchase Gas at a lower or more advantageous price than the Contract Price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Agreement; (iv) the loss of Buyer's market(s) or Buyer's inability to use or resell Gas purchased hereunder, except, in either case, as provided in Section 11.2; or (v) the loss or failure of Seller's gas supply or depletion of reserves, except, in either case, as provided in Section 11.2. The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.

11.4. Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the party experiencing such disturbance.

11.5. The party whose performance is prevented by Force Majeure must provide Notice to the other party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written Notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of Gas, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.

11.6. Notwithstanding Sections 11.2 and 11.3, the parties may agree to alternative Force Majeure provisions in a Transaction Confirmation executed in writing by both parties.

SECTION 12. TERM

This Contract may be terminated on 30 Day's written Notice, but shall remain in effect until the expiration of the latest Delivery Period of any transaction(s). The rights of either party pursuant to Section 7.6 and Section 10, the obligations to make payment hereunder, and the obligation of either party to indemnify the other, pursuant hereto shall survive the termination of the Base Contract or any transaction.

SECTION 13. LIMITATIONS

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE.

TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS.

SECTION 14. MISCELLANEOUS

14.1. This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed; provided, either party may (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements, or (ii) transfer its interest to any parent or affiliate by assignment, merger or otherwise without the prior approval of the other party. Upon any such assignment, transfer and assumption, the transferor shall remain principally liable for and shall not be relieved of or discharged from any obligations hereunder.

14.2. If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of this Contract.

14.3. No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.

14.4. This Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract and any effective transaction(s). This Contract may be amended only by a writing executed by both parties.

14.5. The interpretation and performance of this Contract shall be governed by the laws of the jurisdiction as indicated on the Base Contract, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.

14.6. This Contract and all provisions herein will be subject to all applicable and valid statutes, rules, orders and regulations of any governmental authority having jurisdiction over the parties, their facilities, or Gas supply, this Contract or transaction or any provisions thereof.

14.7. There is no third party beneficiary to this Contract.

14.8. Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.

14.9. The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.

14.10. Unless the parties have elected on the Base Contract not to make this Section 14.10 applicable to this Contract, neither party shall disclose directly or indirectly without the prior written consent of the other party the terms of any transaction to a third party (other than the employees, lenders, royalty owners, counsel, accountants and other agents of the party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) to the extent necessary for the enforcement of this Contract, (iii) to the extent necessary to implement any transaction, or (iv) to the extent such information is delivered to such third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. Subject to Section 13, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. The terms of any transaction hereunder shall be kept confidential by the parties hereto for one year from the expiration of the transaction.

In the event that disclosure is required by a governmental body or applicable law, the party subject to such requirement may disclose the material terms of this Contract to the extent so required, but shall promptly notify the other party, prior to disclosure, and shall cooperate (consistent with the disclosing party's legal obligations) with the other party's efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party.

14.11 The parties may agree to dispute resolution procedures in Special Provisions attached to the Base Contract or in a Transaction Confirmation executed in writing by both parties.

DISCLAIMER: The purposes of this Contract are to facilitate trade, avoid misunderstandings and make more definite the terms of contracts of purchase and sale of natural gas. Further, NAESB does not mandate the use of this Contract by any party. **NAESB DISCLAIMS AND EXCLUDES, AND ANY USER OF THIS CONTRACT ACKNOWLEDGES AND AGREES TO NAESB'S DISCLAIMER OF, ANY AND ALL WARRANTIES, CONDITIONS OR REPRESENTATIONS, EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THIS CONTRACT OR ANY PART THEREOF, INCLUDING ANY AND ALL IMPLIED WARRANTIES OR CONDITIONS OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, OR FITNESS OR SUITABILITY FOR ANY PARTICULAR PURPOSE (WHETHER OR NOT NAESB KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING. EACH USER OF THIS CONTRACT ALSO AGREES THAT UNDER NO CIRCUMSTANCES WILL NAESB BE LIABLE FOR ANY DIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF ANY USE OF THIS CONTRACT.**

**TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY**

EXHIBIT A

Letterhead/Logo	Date: _____, ____ Transaction Confirmation #: _____			
This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____. The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.				
SELLER: _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____	BUYER: _____ _____ Attn: _____ Phone: _____ Fax: _____ Base Contract No. _____ Transporter: _____ Transporter Contract Number: _____			
Contract Price: \$ _____/MMBtu or _____				
Delivery Period: Begin: _____, ____ End: _____, ____				
Performance Obligation and Contract Quantity: (Select One) <table style="width:100%;"> <tr> <td style="width:33%; vertical-align: top;"> Firm (Fixed Quantity): _____ MMBtus/day ? EFP </td> <td style="width:33%; vertical-align: top;"> Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of ? Buyer or ? Seller </td> <td style="width:33%; vertical-align: top;"> Interruptible: Up to _____ MMBtus/day </td> </tr> </table>		Firm (Fixed Quantity): _____ MMBtus/day ? EFP	Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of ? Buyer or ? Seller	Interruptible: Up to _____ MMBtus/day
Firm (Fixed Quantity): _____ MMBtus/day ? EFP	Firm (Variable Quantity): _____ MMBtus/day Minimum _____ MMBtus/day Maximum subject to Section 4.2. at election of ? Buyer or ? Seller	Interruptible: Up to _____ MMBtus/day		
Delivery Point(s): _____ (If a pooling point is used, list a specific geographic and pipeline location):				
Special Conditions:				
Seller: _____ By: _____ Title: _____ Date: _____	Buyer: _____ By: _____ Title: _____ Date: _____			

SPECIAL PROVISIONS TO THE
Base Contract for Sale and Purchase of Natural Gas (NAESB)
Between and Chicago Transit Authority
Dated , 200

The above-referenced Base Contract for Sale and Purchase of Natural Gas (the "Base Contract") between and Chicago Transit Authority is hereby amended and revised, effective as of the date of the Base Contract. Unless specifically agreed otherwise in a Transaction Confirmation, the Base Contract, as modified by these Special Provisions, shall apply to all transactions for the purchase and sale of Gas between the parties. All capitalized terms not otherwise defined herein shall have the meaning set forth in the Base Contract.

1. Section 1.3. The last sentence of Section 1.3 is amended to read as follows:

"In the event of a conflict among the terms of (i) the Base Contract, including these Special Provisions, (ii) the General Terms and Conditions from NAESB Standard 6.3.1, (iii) a binding Transaction Confirmation pursuant to Section 1.2, and (iv) the oral agreement of the parties which is evidenced by a recorded conversation, where the parties have selected the Oral Transaction Procedure of the Base Contract, the terms of the documents shall govern in the priority listed in this sentence."

2. Section 3.4. Section 3.4 is hereby deleted.

3. Section 6. The label "6.1. " is hereby added before the first occurrence of the words "Seller shall pay " in Section 6 and a new Section 6.2 is hereby added reading as follows:

"6.2. Federal Excise Tax does not apply to materials purchased for the Authority by virtue of Exemption Certificate No. 36-73-0234K. Illinois Retailers Occupation Tax, Use Tax, and Municipal Retailers' Occupational Tax do not apply to materials or services purchased by the Authority by virtue of Chapter 70 Illinois Compiled Statutes Section 3605, 33 as amended. These taxes must not be included in any of the prices quoted in the Consultant's Proposal. The Authority's Illinois Tax Exemption Identification number is E9978-2987-04."

4. Section 7.2. Replace "10" with "15".

5. Section 7.5. The following language is hereby inserted after "(i).": replacing the previous language for "(i).":
"the interest rate specified in the Illinois Local Government Prompt Payment Act a copy of which is available at:
<http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=725&ChapAct=50%26nbsp%3BILCS%26nbsp%>

6. Section 8.1 In the second line, insert the word "arising" between "Gas" and "prior". In the third line, insert the word "assume" after the word "and"; and after the word "Gas", insert the words "arising upon or".

7. Section 9.3. In the first line, replace the word "given" with the word "effective".

8. Section 9.4. A new Section 9.4 is added as follows:

9.4. The Agreement number must be prominently featured in the heading of all notices sent hereunder.

Any and all notices referred to in this Agreement, or that either party desires to give to the other, shall be addressed as follows:

Supplier: _____ Notices, Correspondence and Parcel Deliveries, _____ Fax Number _____	Buyer: Chicago Transit Authority Notices and parcel Deliveries 321 S. Franklin St. Chicago IL 60606 Attn: Rick Straubel Fax number: 312 922-3760
Payments (as indicated on invoice)	

9. Section 10.1. Section 10.1 is hereby deleted without affecting the numbering of subsequent sections.

10. Section 12. The first sentence is hereby deleted and replaced with the following sentence:
"This Contract shall remain in effect for a period of twenty four (24) months from May 1, 2009."

11. Section 14.1. The second sentence in the section is replaced with the following:
"Supplier may not assign this Agreement in whole or in part without the written approval of Buyer."

12. Section 14.11. Section 14.11 is hereby deleted without affecting the numbering of subsequent sections.

13. New Section 15. A new Section 15 is hereby added as follows:

Section 15 -- Additional CTA Special Provisions

C:\Documents and Settings\Jkozicki\Local Settings\Temporary Internet Files\Content.IE5\ATPIVEDS\Special CTA terms and conditions
addition to NAESB 01[1].29.2009 CLEAN.doc 1

15.1. Definitions

For the purpose of Section 15, the terms set forth in this Section 15.1 below shall have the meaning ascribed to them herein.

15.1.1. "Subconsultant" shall mean an individual, firm, partnership, corporation, or business entity other than an employee of the Supplier that contracts with Supplier to supply Gas to Buyer under this Contract. The word "Subconsultant" is referred to as if singular in number and means each Subconsultant and any authorized representative of each Subconsultant.

15.1.2. "Subcontract" shall mean a contract between Supplier and a Subconsultant.

15.2 Transaction Confirmation Special Conditions

The terms and conditions of the Base Contract and these Special Conditions cannot be changed or amended through the Special Conditions appearing on the Transaction Confirmation form.

15.3. Records and Audits

A. Records

- (i) The Supplier must deliver or cause to be delivered to Buyer promptly, at a mutually agreeable place and time, all documents prepared for Buyer under the terms of this Agreement, or reasonably required by Buyer to verify the accuracy of any bill or charge, in accordance with the time limits prescribed in this Agreement, and if no time limit is specified, then upon reasonable demand for them or upon termination or completion of the natural gas services under this Agreement.

Supplier must maintain any such records not delivered to Buyer or demanded by Buyer for a period of 3 years after the final payment made in connection with this Agreement.

- B. (i) Supplier and any of its Subcontractors must furnish Buyer with all information that may be reasonably requested pertaining to all costs and charges that the Supplier is authorized to pass-through to the Buyer under this Agreement which relate to the delivery of the natural gas. Supplier must keep books, documents, paper, records and accounts in connection with the services open to audit, inspection, copying, abstracting and transcription and must make these records available (in paper and electronic form) to Buyer, its auditors at reasonable and mutually convenient times and places during the performance of the natural gas services.
- (ii) Supplier must maintain its books, records, documents and other evidence and adopt accounting procedures and practices sufficient to reflect properly all pass-through costs and charges of whatever nature claimed to have been incurred and anticipated to be incurred for or in connection with the performance of this Agreement. This system of accounting must be in accordance with generally accepted accounting principles and practices, consistently applied throughout.
- (iii) No provision in this Agreement granting Buyer a right of access to records and documents is intended to impair, limit or affect any right of access to such records and documents that Buyer would have had in the absence of such provisions.
- (iv) Buyer may in its sole discretion audit the records of Supplier or its Subcontractors relating to all pass-through costs and charges, at a mutually agreeable place and time during the term of this Agreement or within three years after the Agreement ends, in connection with the goods, work, or services provided under this Agreement. Each calendar year or partial calendar year is considered an "audited period." If, as a result of such an audit, it is determined that Supplier or any of its Subcontractors has overcharged Buyer in the audited period, Buyer will notify Supplier. Supplier must then promptly reimburse Buyer for any amounts Buyer has paid Supplier due to the overcharges, plus interest at the rate of 18% per annum from the date of payment of the overcharge. Supplier will not be responsible for any interest on overcharges that result, through no fault of Supplier, from incorrect meter readings or meter readings supplied by the Delivery Company to the Supplier.

15.4. Confidentiality

Buyer is a body corporate and politic and a unit of local government. Buyer is subject to the Freedom of Information Act, 5 ILCS 140/1, *et seq.*, which declares, among other things, that it is the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government. It is Buyer's intent to make this entire Agreement and the prices paid available to the public.

15.5. Deemed Inclusion

Provisions required (as of the Effective Date) by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by

either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement. The following additional attachments are deemed included and are incorporated by this reference:

Attachments:

- Listed Facilities
- _____, 2009 Proposal and _____, 2009 BAFO
- CTA RFP No. _____ and Addenda

15.6. Independent Contractor

This Agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between Supplier and Buyer. The rights and the obligations of the parties are only those set forth in this Agreement. Supplier must perform under this Agreement as an independent contractor and not as a representative, employee, agent, or partner of Buyer.

15.7. Miscellaneous

This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Illinois. The forum of choice for the parties to resolve any dispute which may arise out of this Agreement is the appropriate state court of competent jurisdiction located in Cook County, Illinois. This Agreement shall not be construed against a Party by reason of who prepared it. Each Party represents and warrants that the person signing this Agreement is authorized to do so and that this Agreement is a valid and binding obligation of such Party. The parties agree that fax copies of executed original copies of this Agreement shall be sufficient and admissible evidence of the content and existence of this Agreement to the same extent as the originally executed copy or copies (if executed in counterpart).

15.8. Contract Changes

Any change, modification, change order, or amendment (hereinafter "Contract Change") to this Agreement must be in writing and approved and signed by Buyer and Supplier. Contract Changes can include, but are not limited to, changes to scope, time extensions, cost, contract terms, or any combination thereof. Supplier shall be liable for satisfactorily correcting, and/or all costs resulting from, any change not ordered in writing and signed by Buyer.

15.9. Substance Abuse

To the extent the Supplier, Subcontractor, or any party contracted for work as a result of this Agreement performs a safety sensitive function, Supplier agrees to comply with, and assures their employees comply with all applicable drug and alcohol abuse testing requirements that may be found under state and federal law as they apply to public contracting.

15.10. Obligation to Comply with the Authority's Inspector General Ordinance

The Supplier agrees to comply with all of the requirements of Authority Ordinance No. 99-173, as it may be amended from time to time, the provisions of which are incorporated into this Agreement to the same force and effect as if set forth in full herein. As required by Ordinance No. 99-173, as amended, the Supplier agrees to cooperate fully and expeditiously with the Authority's Inspector General in all investigations or audits. This obligation applies to all officers, directors, agents, partners, employees, and Subcontractors of the Supplier. A copy of this ordinance is available at <http://www.transitchicago.com/assets/1/procurement/orIG99-173.pdf>.

15.11. Limitation of Liability

In carrying out any of the provisions of this Agreement or in exercising any power or authority granted to them thereby, there will be no liability upon the board members, officials, agents or employees of the Authority, including without limitation the General Manager, Purchasing, and the Project Manager, either personally or as officials of the Authority, it being understood that in such matters they act as representatives of the Authority.

In carrying out any provisions of this Agreement there will be no liability upon the board members, officers, agents or employees of the Supplier, it being understood that such persons act as representatives of the Supplier.

15.12. Advertising and Publicity

Supplier must not disclose, use or refer to this Agreement or any of its terms, or the name of the Authority in any advertising, publicity releases, promotional materials or materials distributed to existing or prospective customers, without the prior written consent of the Project Manager. Notwithstanding the above, Supplier may identify the Authority as a customer or client in a general customer reference list.

15.13. Representations of Supplier

In connection with the execution of this Agreement, the Supplier represents and warrants:

1. That it, each of its joint venture members if a joint venture, and its Subcontractors, are not in default at the time of the execution of this Agreement, or deemed by the General Manager, Purchasing to have, within 3 years immediately preceding the date of this Contract, been found to be in default, in connection with any contract awarded by the Authority.
2. That this Agreement is feasible of performance in accordance with all of its provisions and requirements and that the Supplier can and will perform, or cause to be performed, the Scope of Services in accordance with the provisions and requirements of this Agreement.
3. The parties acknowledge that, except only for those representations, statements, or promises expressly contained in this Agreement, and any exhibits attached hereto and incorporated by reference herein, neither Party has relied upon any other representation, statement or promise of the other Party, either made orally or in writing.
4. That, Supplier acknowledges that the Authority, in its selection of the Supplier to perform the Scope of Services hereunder, materially relied upon the Supplier's response(s) to the Authority's solicitation

15.14. Compliance with All Laws

The Supplier will at all times observe and comply with all laws, ordinances, regulations, and codes of the Federal, State, City, Authority and other local government agencies that may in any manner affect the contents of the RFP or the performance of the Agreement.

15.15. Civil Rights

1. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 USC § 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 USC § 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 USC § 12132, and Federal Transit Law at 49 USC § 5332, the Supplier agrees that it will not discriminate against any employee or applicant on the basis of race, color, creed, national origin, sex, age, or disability. In addition, the Supplier agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Agreement:
 - a. **Race, Color, Creed, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 USC § 2000e, and Federal Transit Laws at 49 USC § 5332, the Supplier agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect Services provided under this Contract. The Supplier agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action will include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Supplier agrees to comply with all implementing requirements FTA may issue.
 - b. **Age.** In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC § 623 and Federal Transit Law at 49 USC § 5332, the Supplier agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Supplier agrees to comply with any implementing requirements FTA may issue.
 - c. **Disabilities.** In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 USC § 12112, the Supplier agrees that it will comply with the requirements of US Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Supplier agrees to comply with any implementing requirements FTA may issue.
3. During the performance of this Agreement, the Supplier agrees as follows:

- a. The Supplier will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Supplier will take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action will include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The Supplier agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Contracting Officer setting forth the provisions of this nondiscrimination clause.
 - b. The Supplier will, in all solicitations or advertisements for employees placed by or on behalf of the Supplier, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.
 - c. The Supplier will send to each labor union or representative of workers with whom the representative has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Authority's General Manager, Purchasing, advising the labor union or workers' representative of the Supplier's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and will post copies of the notice in conspicuous places available to employees and applicants for employment.
 - d. The Supplier will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - e. The Supplier will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the Authority and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulation, and orders.
 - f. In the event of the Supplier's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Supplier may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies applied as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
 - g. The Supplier must include the provisions of the above Paragraphs (a) through (f) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each Subcontractor or vendor. The Supplier will take such action with respect to any subcontract or purchase order as the Authority may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that in the event the Supplier becomes involved in, or is threatened with, litigation with a Subcontractor or vendor as a result of such direction by the Federal Government contracting agency, the Supplier may request the United States to enter into such litigation to protect the interests of the United States.
4. The Supplier also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

15.16. Illinois Human Rights Act

During the term of this Agreement, the Supplier must comply with the provisions of the Illinois Human Rights Act which are applicable to public contracts. The provisions of the Illinois Human Rights Act are incorporated into this agreement. A copy of this act is available at [http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2266&ChapAct=775%26nbsp%3BILCS%](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2266&ChapAct=775%26nbsp%3BILCS%20).

15.17. Disclosure of Ownership

Any person, business entity, or agency that submits a proposal for the purpose of contracting with the Authority is required to complete all certifications, forms and statements contained in the Authority's RFP.

15.18. Ethics Ordinance

Supplier agrees to comply with the CTA Ethics Ordinance, CTA Ordinance No. 004-76, as amended from time to time, the provisions of which are hereby incorporated into this Agreement. The Supplier agrees that, as provided by Section 5.3 of the

CTA Ethics Ordinance, any contract negotiated, entered into, or performed in violation of any of the provisions of the Ethics Ordinance shall be voidable as to the Authority at the election of the Authority. A copy of this ordinance is available at <http://www.transitchicago.com/assets/1/procurement/or004-99.pdf>.

15.19. Conflict of Interest

1. No Board member, officer or employee of the Authority or other unit of local government, who exercises any functions or responsibilities in connection with the carrying out of the Scope of Services or the carrying out of the Scope of Services to which this Agreement pertains, may have any personal interest, direct or indirect, in this Agreement or the proceeds thereof.
2. In accordance with 41 USC § 22, the Supplier agrees that no member of or Delegate to the Congress of the United States, or the Illinois General Assembly and no members of the Chicago Transit Board or Authority employees, may be admitted to any share or part of this Agreement or to any private financial interest, profit, or benefit arising herefrom.
3. The Supplier covenants that it, its officers, directors and employees, and the officers, directors, and employees of such of its members if a joint venture, and Subcontractors presently have no interest and will not acquire any interest, direct or indirect, in the Scope of Services to which this Agreement pertains, which would conflict in any manner or degree with the performance of the Services hereunder. The Supplier further covenants that, in the performance of this Agreement, no person having any such interest will be employed by the Supplier.
4. An organizational conflict of interest exists when the nature of work to be performed under a proposed third party contract or subcontract may, without some restriction on future activities, result in an unfair competitive advantage to the third party contractor or Subcontractor or impair its objectivity in performing the Agreement. The Supplier is prohibited from performing any work or services for the Authority that conflict with work or services that the Supplier performs under any other contract with the Authority. The restrictions in this paragraph are applicable to all Subcontractors. The Supplier has sole responsibility for compliance with this provision. Any violation of this provision is a material breach of the Agreement, which is cause for termination.

End of Section 15

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have executed this Contract in triplicate on the day and year first above written.

SUPPLIER

By: _____
(Signature)

Name

Title

[If a corporation and signed by any person other than the president or vice-president, a certified copy of the resolution or by-law authorizing such person to sign must be attached to this Contract.]

State of _____

County of _____

Signed and sworn before me by the signatory whose name appears above on this:

____ day of _____, 20____
(day) (month) (year)

My Commission expires:

(Signature of Notary Public)

CHICAGO TRANSIT AUTHORITY

By: _____
(Signature)

President

Vice President, Purchasing & Warehousing

Dated: _____

Authorized by Ordinance No.: _____
of the Chicago Transit Board

Assistant Secretary

Approved as to form and legality for the sole benefit of the Authority. Subject to proper authorization and execution thereof.

Attorney

Appendix B

Historical Natural Gas Usage Summary

Chicago Transit Authority Estimated Gas Account Summary for the year 2008

Peoples FST Accounts Jan-08 Feb-08 Mar-08 Apr-08 May-08 Jun-08 Jul-08 Aug-08 Sep-08 Oct-08 Nov-08 Dec-08 Total

Account Number	Address	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms
3500009579229	3357 W LAWRENCE	10,766	9,471	7,580	4,172	192	1,312	81	70	243	2,076	5,050	10,184
3500013834583	120 N RACINE	6,886	4,459	4,909	3,947	7,763	7,761	12,528	12,080	7,383	3,749	10,507	329
3500015643949	9820 S STATE	9,235	3,756	10,678	6,322	206	107	99	93	107	2,733	6,131	9,916
3500016585763	7801 S VINCENNES	6,880	22,840	12,850	8,448	300	3,099	58	-	543	3,683	3,814	7,493
3500019500916	313 E 63RD	4,731	5,847	5,579	1,349	435	7	10	16	25	101	3,644	4,568
3500020464515	2 W 95TH	3,562	5,086	2,444	2,064	1,472	172	178	178	242	924	1,596	4,146
8500020559026	1339 W 103RD ST BLDG	5,117	3,998	5,264	2,299	49	30	26	39	27	1,556	4,221	2,741
8500050991464	1120 E 89th St	11,881	16,111	4,817	4,817	2,244	71	71	51	81	475	6,167	12,758
Total		59,056	71,569	54,122	33,419	12,661	12,560	13,051	12,527	8,651	15,297	41,130	52,135

386,179

Peoples SST Accounts

Account Number	Address	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms
350000627537	5350 W ARMSTRONG AVE	26,251	27,934	29,422	17,029	1,299	149	176	115	400	10,929	21,905	32,123
350002935871	4301 W CHICAGO AVE BLDG	134,251	120,997	89,566	40,064	12,735	788	435	417	3,968	21,298	74,054	116,200
3500004270557	901 W DIVISION	25,091	28,210	20,170	13,213	11,706	1,200	110	103	1,166	6,328	16,781	32,954
3500006849829	7750 N HASKINS	19,779	20,537	17,468	6,555	615	161	94	74	122	5,532	14,035	22,389
3500008229280	5335 N KEDZIE	58,737	57,744	59,974	35,129	7,183	698	184	93	195	24,811	49,792	68,035
3500008304526	358 S KEDZIE	139,339	121,539	137,838	64,985	55	95	12	-	5	20,901	82,345	120,432
3500009168054	3901 W LAKE STREET	24,477	21,202	17,374	10,188	803	240	257	164	125	7,221	16,550	27,074
3500010990567	3903 W MAYPOLE	29,226	29,546	23,019	10,824	4,645	336	74	75	480	5,991	17,005	29,039
3500013351200	2600 W PERSHING	142,711	130,047	129,636	73,050	5	2	5	21	180	34,822	102,406	120,395
3500019281440	4625 W 56TH	18,552	20,793	18,248	8,256	71	57	51	32	49	3,363	13,284	17,042
3500019417722	331 E 61ST STREET	19,399	18,102	15,870	7,192	104	114	117	111	69	4,083	13,008	17,770
3500019919143	1731 W 74TH STREET	140,134	135,180	112,047	36,450	503	806	667	749	671	9,255	50,197	90,284
3500020554143	1700 E 103RD	181,919	155,437	128,110	67,778	10,241	1,965	500	432	575	55,248	116,909	95,308
Total		959,867	887,267	798,742	390,712	49,964	6,610	2,681	2,386	8,006	209,782	588,270	789,044

4,693,331

Peoples SST-77th Garage Accounts

Account Number	Address	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms
3500016585739	7701 S VINCENNES AVE BLDG	390,671	375,370	340,474	226,503	83,572	25,140	24,443	21,404	23,511	118,100	297,855	411,347
3500043622932	567 W Lake Street	13,668	12,826	7,877	2,873	1,047	-	-	-	22	1,790	7,671	15,760
Total		404,340	388,196	348,351	229,376	84,618	25,140	24,443	21,404	23,533	119,890	305,527	427,108

2,401,925

Nicor Transportation Accounts

Account Number	Address	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms	Therms
568190000	5800 RIVER RD	19,666	19,768	16,515	9,171	1,507	99	99	88	97	4,386	7,821	16,754
170358000	707 DESPLAINES	11,778	9,600	7,887	6,552	4,869	1,183	1,183	61	203	5,560	9,621	12,262
612744000	2134 54TH AVE	10,104	9,937	8,950	4,192	166	43	-	31	37	2,132	7,204	10,664
784454000	1 S HARLEM	7,687	6,823	3,024	1,021	122	122	43	87	587	3,116	4,944	8,328
827315000	7849 N HAMLIN	71,253	87,635	65,129	31,170	3,285	3,012	3,162	2,789	3,123	23,383	54,229	84,639
Total		120,487	133,762	104,124	54,109	10,848	4,459	4,488	3,056	4,047	38,577	83,819	132,647

694,423

Appendix C

Bid Protest Procedure

BID PROTEST PROCEDURES

SECTION I – AUTHORITY BID PROTEST PROCEDURE

- A. The Chicago Transit Authority (CTA/ Authority)** will hear and consider a bona fide bid protest regarding its procurement actions. It is anticipated that the majority of protests will be evaluated and finally decided by the Authority. Accordingly, the Authority intends to provide a thorough review of all bona fide bid protests. The Authority's primary concern, however, is the timely procurement of needed capital equipment, supplies or services. It does not intend to allow the filing of bid protests to unnecessarily delay the procurement process, especially if the protest involved is vexatious or frivolous in nature.

Notwithstanding the availability of these protest procedures, any interested party is encouraged to exhaust all methods described in the Contract Documents of resolving a procurement issue before filing a formal protest with the Authority. In its consideration of a bid protest, the Authority reserves the right to give due consideration to the good faith efforts of the protestor to resolve the issue involved through informal methods.

Note – The Federal Transit Administration (FTA) will be notified by the Authority of all formal, written protests, when FTA funds are involved.

B. Definitions for purposes of this section -

1. The term "days" refers to working days of the Authority.
2. The term "interested party" means any person (a) who is an actual bidder or prospective bidder in the procurement involved, and (b) whose direct economic interest would be affected by the award of the contract or by a failure to award the contract.

C. Submission of Protest

Any interested party may file a bid protest with the Authority on the basis that the Authority has failed to comply with applicable Federal or State law or with the Authority's Procurement Regulations. The protest must be filed in accordance with the timing requirements set forth in subsection D. "*Types of Protests and Timing*" of this section, and must include:

1. The name and address of the protestor.
2. The number of the contract solicitation.
3. A statement of the grounds for the protest, and in particular the Federal or State law or Authority Regulation alleged to have been violated. This statement should be accompanied by any supporting documentation the protesting party desires the Authority to consider in making its decision.

Protest should be submitted to: **General Manager Purchasing
Chicago Transit Authority
P.O. Box 7560
Chicago, IL 60680-7560**

D. Types of Protests and Timing

The requirement for timely filing of a bid protest with the Authority will depend upon the type of protests involved. The Authority will consider the following three types of protest by interested parties:

1. Protest regarding solicitation

Any bid protest regarding the solicitation by the Authority must be filed **no later than five (5) days before the opening of bids**. Any protest filed after that date which raises issues regarding the solicitation will not be considered by the Authority.

This type of protest would include any claim that the bid solicitation contained exclusionary or discriminatory specifications, any challenge to the basis of award, or any claim that the solicitation documents or the solicitation process violated applicable Federal or State law, or that the Authority failed to follow its Procurement Regulations in the solicitation of bids.

2. Protests regarding bid evaluation

Any bid protest regarding the evaluation of bids by the Authority must be filed with the Authority **no later than twenty (20) days after the opening of bids**. Any protest filed after such date which raises issues regarding the bid evaluation will not be considered by the Authority.

This type of protest would include any challenge to determinations by the Authority of the responsiveness of a bid or the responsibility of a bidder, or any claim that the evaluation of bids violated federal or State law or the Authority's Procurement Regulations.

3. Protests Regarding Award of Contract

Any protest regarding the award of the contract must be filed **no later than ten (10) days after the date of award**. Any protest regarding the award of the contract filed after that date will not be considered by the Authority.

This type of protest will only be entertained by the Authority if the protestor is able to demonstrate that the party awarded the contract fraudulently represented itself as a responsible bidder or that the Authority violated Federal or State law or its Procurement Regulations in the award of the contract.

E. Authority Response

1. Types of Protests

The Authority will notify the protestor upon timely receipt of a bid protest and may, where appropriate, request additional information from the protestor. The Authority may, at its discretion, meet with the protestor to review the matters raised by the protest. The Authority's consideration of the particular types of protests will, except as otherwise provided in subsection 2. "*Decisions by Authority*" of this section, be in accordance with the following provisions:

a. Protest regarding solicitation

Upon receipt of a timely filed protest regarding the solicitation, the Authority will postpone the opening of bids until resolution of the protest. No additional bids will be accepted during the period of postponement.

If the protest regarding the solicitation involves a claim of unduly restrictive or exclusionary specifications, the Authority will, in evaluation of the protest, consider both the specific need of the Authority for the feature or item challenged and any effects on competition of including the specification regarding that feature or item. If the Authority determines that such feature or item was included in the specification in order to meet justified and valid transit needs of the Authority, and was not unduly restrictive of competition or designed to exclude a particular competitor, then the Authority will have grounds to deny the protest.

b. Protests regarding bid evaluation

Upon receipt of a timely filed protest regarding the evaluation of bids, the Authority will suspend its evaluation of all bids submitted until resolution of the protest if the Authority determines that the protestor has established that there are reasonable doubts regarding the responsiveness of a bid or the responsibility of a bidder or regarding the Authority's compliance with Federal or State law or its Procurement Regulations.

c. Protests after award

Upon receipt of a timely filed protest regarding the award of a contract, the Authority will issue a stop work order, if necessary, until the resolution of the protest if the Authority determines that the protestor has established a prima facie case that the contract was awarded fraudulently or in violation of that Federal or State law or the Authority's Procurement Regulations.

2. Decisions by Authority

As indicated above, in most instances the Authority will suspend the procurement process upon receipt of a bona fide bid protest. However, the Authority reserves the right, notwithstanding the pendency of a protest, to proceed with the appropriate action in the procurement process or under the contract in the following cases:

- a. where the item to be procured is urgently required;
- b. where the Authority determines that the protest was vexatious or frivolous; and
- c. where delivery or performance will be unduly delayed, or other undue harm will occur, by failure to make the award promptly.

After review of a bid protest submitted under this section, the Authority will issue a written decision of the basis of the information provided by the protestor, the results of any meetings with the protestor, and the Authority's own investigation. If the protest is upheld, the Authority will take appropriate action to correct the procurement process and protect the rights of the protestor, including resolicitation of bids, revised evaluation of bids or Authority determinations, or termination of the contract. If the protest is denied, the Authority will lift any suspension imposed and proceed with the procurement process or the contract, as the case may be.

The availability of review of bid protest by FTA is described in Section II. As noted in that section, under FTA's revised procurement guidelines the role of the Federal government in bid protest review is quite limited.

SECTION II – FTA BID PROTEST PROCEDURE

Reviews of protests by FTA will be limited to claims that the CTA failed to have or follow protest procedures, or claims that CTA failed to review a complaint or protest. A protestor must exhaust all administrative remedies with the CTA before pursuing a protest with FTA. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester knew or should have known of the violation.

Violations of Federal law or regulation will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of State or local authorities.

Appendix D

CERTIFICATION – Debarment –
Primary Participant

**CERTIFICATION OF PRIMARY PARTICIPANT
REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS**

_____, certifies to the best of our knowledge and belief that it and
(Company's name)

its principles:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
3. Are not presently indicated for or otherwise criminally or civilly charged by charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

THE PRIMARY PARTICIPANT (APPLICANT OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT) _____ CERTIFIES OR
(Company name)
AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 *ET SEQ.* ARE APPLICABLE THERETO.

(Signature and Title of Authorized Official)

If you are unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

Appendix E

CERTIFICATION – Debarment –
Lower-Tier Participant

**CERTIFICATION OF LOWER TIER PARTICIPANT
REGARDING DEBARMENT, SUSPENSION, AND OTHER
RESPONSIBILITY MATTERS**

_____, certifies to the best of our knowledge and belief that it and
(Company's name)

its principles:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of frauds or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
3. Are not presently indicated for or otherwise criminally or civilly charged by charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/ proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

THE LOWER TIER PARTICIPANT (APPLICANT OR POTENTIAL CONTRACTOR FOR A MAJOR
THIRD PARTY CONTRACT) _____ CERTIFIES
(Company name)
OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS
SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF
31 U.S.C. SECTIONS 3801 *ET SEQ.* ARE APPLICABLE THERETO.

(Signature and Title of Authorized Official)

If you are unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

Appendix F

CERTIFICATION – Drug-free Workplace

CERTIFICATION REGARDING A DRUG FREE WORKPLACE

Pursuant to the definitions regarding a Drug Free Workplace provided in the Drug-Free Workplace Act of 1988, the Illinois Drug Free Workplace Act, 30 ILCS 580/1 *et seq.*, the Federal Acquisition Regulation System ("FAR"), Procedures for Transportation Workplace Drug & Alcohol Testing Programs, 49 CFR 40, and Prevention of Alcohol Misuse & Prohibited Drug Use in Transit Operation, 49 CFR 655, _____ ("Contractor") certifies to the best of its knowledge and belief that it and its principals:

1. Maintain a workplace(s) (i.e. the site(s) for the performance of work done by the Contractor in connection with this contract) safe and free from "controlled substances" as described in the Controlled Substances Act (21 U.S.C. 812) and as further described in regulations 21 CFR 1308.11 – 1308.15.
2. Have neither been convicted, including entering a plea of 'nolo contendere,' nor had sentence imposed by any judicial body charged with the responsibility to determine violations of Federal or State criminal drug statutes.
3. Publish and give notice to its employees and sub-contractors that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Contractor's workplace, and also that actions will be taken against any and all employees and sub-contractors found to be in violation of same.
4. Provide that all employees engaged in the performance of the contract receive a copy of the above statement, that the employee will abide by the terms of this statement, and that the employee will notify the employer in writing of the employee's conviction no later than five (5) calendar days after such conviction.
5. Provide for appropriate action against an employee for violation of any and all of these rules and that an employee convicted of drug abuse must satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by Federal, State, or local health or law enforcement or other appropriate agency.
6. Comply with all drug and alcohol policies, testing programs and reporting requirements set forth in 49 CFR 40 and 49 CFR 655 whenever the Contractor, its employees, or sub-contractor(s) perform one or more of the following functions considered "safety-sensitive", as defined in 49 CFR 655:
 - (1) Operating a revenue service vehicle, including when not in revenue service;
 - (2) Operating a non-revenue service vehicle, when required to be operated by a holder of a commercial Driver's License;
 - (3) Controlling dispatch or movement of a revenue service vehicle;
 - (4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; or
 - (5) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service; or
 - (6) Carrying a firearm for security purposes.
7. Will otherwise comply with all drug and alcohol policies set forth in applicable Federal, State and local laws and regulations, including, but not limited to the Drug-Free Workplace Act of 1988, FAR, Illinois Drug Free Workplace Act, 49 CFR 40 and 49 CFR 655 in such version, prior or subsequent to amendment or revision, as is currently enforced or enforceable at and during the execution and performance of this Contract.

In addition to other remedies, the Contractor's failure to comply with any part of the requirements of the Drug-Free Workplace Act of 1988, FAR, Illinois Drug Free Workplace Act, 49 CFR 40 or 49 CFR 655, may render the Contractor subject to any or all of the following: suspension of payments, termination of contract for default, suspension or debarment.

(Signature and Title of Authorized Official)

(Date)

Appendix G

CERTIFICATION – Lobbying

LOBBYING CERTIFICATION

Certification for Contracts, Grants, Loans and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, 20_____.

By: _____
(Type or print name of contractor)

(Signature of authorized officer)

(Title of authorized officer)

Appendix H

Brief History of Your Company

BRIEF HISTORY OF YOUR COMPANY

Tell us about your company:

Company Name: _____

Address: _____

City: _____ State: _____ Zip: _____

Local Contact Person: _____

Title: _____

Phone Number: () _____ - _____ Fax Number: () _____ - _____

How many years has your company been in business? _____

How many employees? _____ **Annual Sales?** _____

Is your business a (an): (check one)

Manufacturer _____ Supplier _____ Distributor _____ Other (explain) _____

Have you provided goods or services to city government, state, county, Board of Education, municipality, etc.?

Please provide a list of references including the three (3) largest companies your firm has done business with in the past two (2) years, and a person and a telephone at that firm which CTA may contact.

Firm Name

Contact Person

Telephone[illegible]

Appendix I

Disclosure of Ownership
(Prime Consultant & Sub-Consultant)

DISCLOSURE OF OWNERSHIP

All businesses submitting proposals are required to complete the appropriate portion of this form. If more space is needed attach additional pages. In signing and submitting its proposals, of which this Disclosure of Ownership form is a part, the business certifies that the information submitted on this Disclosure of Ownership form is correct as of the date of the submittal of the proposal.

1. IF THE BUSINESS IS A CORPORATION, check this box ☐ and complete:
If the shares of the Corporation are not listed on the New York Stock Exchange or any regional exchange, list then name of each person who possesses either nominal or beneficial ownership or 5% or more of the Corporation's stock (list below). If none, type or print "NONE" in space below.

Is the Corporation listed on the New York Stock Exchange? ☐ Yes ☐ No

If the corporation is listed on an exchange other than the New York Stock Exchange, the name of the exchange is _____

TYPED OR PRINTED NAME	%INTEREST
_____	_____
_____	_____
_____	_____
_____	_____

2. IF THE BUSINESS IS A PARTNERSHIP, check this box ☐ and complete:
The name of each general, limited or individual partner entitled to receive 5% or more of the profit derived from partnership activities (list below). If none, type or print "NONE" in space below.

TYPED OR PRINTED NAME	%INTEREST
_____	_____
_____	_____
_____	_____
_____	_____

3. IF THE BUSINESS IS A SOLE PROPRIETORSHIP, check this box ☐ and complete:
The name of each person other than the owner entitled to receive 5% or more of the profits derived from the activities of the business (list below). If none, type or print "NONE" in space below.

TYPED OR PRINTED NAME	%INTEREST
_____	_____
_____	_____
_____	_____
_____	_____

IF BIDDER IS A CORPORATION – THIS PAGE MUST BE EXECUTED

Appendix J

Non-Disclosure Statement
(Prime Consultant & Sub-Consultant)

RFP NON-DISCLOSURE STATEMENT SUB-CONSULTANT

In connection with the Proposal submitted herewith in response to the Chicago Transit Authority's ("CTA") Request for Proposal ("RFP") **B09OP00962– RFP for Purchase of Natural Gas for Exclusive Use by the Chicago Transit Authority for a Period of up to Twenty-Four Months Beginning May 1, 2009,** _____ ("Company") acknowledges and agrees that the evaluation process conducted by the CTA on all Proposals submitted is confidential and sensitive. Company further agrees not to take any action(s) that would frustrate the process, provide any unfair advantage to itself, or provide any advantage or disadvantage to any other proposer in connection with the RFP.

Therefore, Company states as follows:

1. All substantive details of the Proposal submitted by Company and all materials and information provided, discussed, disclosed or otherwise conveyed, whether in writing or orally, by the CTA or Company or between Company and CTA during demonstrations, presentations, meetings or negotiations in connection with the CTA's evaluation of Company's Proposal, including cost or price information, technical information or any other proposal information or conditions with respect to the possible procurement transaction contemplated by the RFP (the "Transaction"), the identity of the CTA's evaluation committee, the name of the proposers, or any sub-contractor, and the number of proposers are hereby referred to as "Confidential Evaluation Material" for purposes of this Statement. Confidential Evaluation Material shall also include all communications regarding the Transaction with Authorized CTA Personnel, including: (i) requests for additional information, (ii) requests for tours or management meetings, (iii) discussions or questions regarding the Transaction, (iv) the occurrence, existence, or lack thereof, of any such communication, discussion or negotiation, (v) the status of discussions or negotiations and (vi) the fact that any Confidential Evaluation Material has been made available to Company. The term Confidential Evaluation Materials does not include statements informing another of the submission or existence of the Proposal.
2. Company will limit knowledge of and access to the Confidential Evaluation Materials to only those of its principals, directors, officers, employees and representatives, who have a need to know such information (collectively the "Company Parties") and such Confidential Evaluation Materials shall be used solely in connection with negotiations with Authorized CTA Personnel regarding the Transaction. When the Company discloses Confidential Evaluation Material to any of the Company Parties, it shall be the Company's responsibility to ensure that all Company Parties recognize the confidential nature of such information, together with the restrictions on use and disclosure contained herein.
3. Company will not disclose any Confidential Evaluation Material to any employee, officer or Board member of the CTA who is not named as Authorized CTA Personnel. Additionally, Company will not contact any employee, officer or Board member of the CTA other than the Authorized CTA Personnel on any matter involving this Transaction. Authorized CTA Personnel shall mean only the CTA Procurement Administrator for the Transaction, the General Manager – Purchasing, the Vice President – Purchasing and Warehousing and any other CTA person or position specifically authorized in writing by either the CTA's Procurement Administrator, General Manager - Purchasing, or Vice President – Purchasing and Warehousing.
4. The Company shall not disclose any Confidential Evaluation Material to, or use any such information for the advantage or disadvantage of, any third person. The term "third person" shall be broadly interpreted to include without limitation any corporation, company, group, partnership or an individual other than the Company Parties and Authorized CTA Personnel.

5. Notwithstanding the above, the obligations of Company regarding the Confidential Evaluation Material do not apply to information which in the opinion of Company's counsel is otherwise required to be disclosed by law. In such event, Company shall provide CTA with written notice of such a determination, and a supporting statement from its counsel, prior to disclosure.
6. Company shall advise the CTA in writing if it learns of any unauthorized use or disclosure of Confidential Evaluation Material.
7. The CTA shall be entitled to equitable relief, including injunction, if any provision of this Statement is breached. Additionally, the CTA reserves the right to disqualify the Company from further consideration for the Transaction in the event of a breach of the terms of this Statement.
8. This Statement is governed by the laws of the State of Illinois and any lawsuits involving this Statement shall be filed in courts of competent jurisdiction located in Cook County, Illinois.
9. This Statement shall be effective as of the date signed and shall continue in full force and effect until the date on which a contract award for the Transaction is made by the CTA's Board.

Agreed to and Accepted:

Company

By: _____

Name: _____

Title: _____

Date: _____

NON-DISCLOSURE STATEMENT

In connection with the Proposal submitted herewith in response to the Chicago Transit Authority's ("CTA") Request for Proposal ("RFP"), **B09OP00962– RFP for Purchase of Natural Gas for Exclusive Use by the Chicago Transit Authority for a Period of up to Twenty-Four Months Beginning May 1, 2009** , _____

("Company") acknowledges and agrees that the evaluation process conducted by the CTA on all Proposals submitted is confidential and sensitive. Company further agrees not to take any action(s) that would frustrate the process, provide any unfair advantage to itself, or provide any advantage or disadvantage to any other proposer in connection with the proposal. Therefore, Company states as follows:

1. All substantive details of the Proposal submitted by Company and all materials and information provided, discussed, disclosed or otherwise conveyed, whether in writing or orally, by the CTA or Company or between Company and CTA during demonstrations, presentations, meetings or negotiations in connection with the CTA's evaluation of Company's Proposal, including cost or price information, technical information or any other proposal information or conditions with respect to the possible procurement transaction contemplated by the proposal (the "Transaction"), the identity of the CTA's evaluation committee, the name of the proposers, or any sub-contractor, and the number of proposers are hereby referred to as "Confidential Evaluation Material" for purposes of this Statement. Confidential Evaluation Material shall also include all communications regarding the Transaction with Authorized CTA Personnel, including: (i) requests for additional information, (ii) requests for tours or management meetings, (iii) discussions or questions regarding the Transaction, (iv) the occurrence, existence, or lack thereof, of any such communication, discussion or negotiation, (v) the status of discussions or negotiations and (vi) the fact that any Confidential Evaluation Material has been made available to Company. The term Confidential Evaluation Materials does not include statements informing another of the submission or existence of the Proposal.
2. Company will limit knowledge of and access to the Confidential Evaluation Materials to only those of its principals, directors, officers, employees and representatives, who have a need to know such information (collectively the "Company Parties") and such Confidential Evaluation Materials shall be used solely in connection with negotiations with Authorized CTA Personnel regarding the Transaction. When the Company discloses Confidential Evaluation Material to any of the Company Parties, it shall be the Company's responsibility to ensure that all Company Parties recognize the confidential nature of such information, together with the restrictions on use and disclosure contained herein.
3. Company will not disclose any Confidential Evaluation Material to any employee, officer or Board member of the CTA who is not named as Authorized CTA Personnel. Additionally, Company will not contact any employee, officer or Board member of the CTA other than the Authorized CTA Personnel on any matter involving this Transaction. Authorized CTA Personnel shall mean only the CTA Procurement Administrator for the Transaction, the General Manager – Purchasing, the Vice President – Purchasing and Warehousing and any other CTA person or position specifically authorized in writing by either the CTA's Procurement Administrator, General Manager - Purchasing, or Vice President – Purchasing and Warehousing.
4. The Company shall not disclose any Confidential Evaluation Material to, or use any such information for the advantage or disadvantage of, any third person. The term "third person" shall be broadly interpreted to include without limitation any corporation, company, group, partnership or an individual other than the Company Parties and Authorized CTA Personnel.

5 Notwithstanding the above, the obligations of Company regarding the Confidential Evaluation Material do not apply to information which in the opinion of Company's counsel is otherwise required to be disclosed by law. In such event, Company shall provide CTA with written notice of such a determination, and a supporting statement from its counsel, prior to disclosure.

6. Company shall advise the CTA in writing if it learns of any unauthorized use or disclosure of Confidential Evaluation Material.

7. The CTA shall be entitled to equitable relief, including injunction, if any provision of this Statement is breached. Additionally, the CTA reserves the right to disqualify the Company from further consideration for the Transaction in the event of a breach of the terms of this Statement.

8. This Statement is governed by the laws of the State of Illinois and any lawsuits involving this Statement shall be filed in courts of competent jurisdiction located in Cook County, Illinois.

9. This Statement shall be effective as of the date signed and shall continue in full force and effect until the date on which a contract award for the Transaction is made by the CTA's Board.

Agreed to and Accepted:

Company

By: _____

Name: _____

Title: _____

Date: _____

Appendix K

Price Proposal

Price Proposal – B09OP00962

The following pricing shall remain in effect throughout the term of the Agreement. The Authority will pay no fees outside of those quoted in this Price Proposal page.

Index Pricing Fixed Adder:

Firm, Full Requirements Supply Price, Delivered to Chicago Citygate:
Increment to Platt's First of Month Gas Daily: Select **only one of the following** and fill in the price:

+ \$0.____ per Decatherm _____(check if selected)

OR

- \$0.____ per Decatherm _____(check if selected)

Fixed Price Transaction Fees:

Throughout the term of the Agreement, the Authority may request a fixed price for either some or all of the contract volumes in any given month during the contract term, in accordance with Section III, Subsection 4 of this RFP and in accordance with the Base Contract for Sale and Purchase of Natural Gas (Appendix A), and the transaction fees set forth below shall apply* :

Line A: For a quantity equal to or greater than 10,000
decatherms in any month: \$0. ____ per decatherm

Line B: For a quantity equal to or between 5,000
and 9,999 decatherms in any month: \$0. ____ per decatherm

Line C: For a quantity equal to or between 2,500
and 4,999 decatherms in any month: \$0. ____ per decatherm

Line D: For quantity equal to or less than 2,500
decatherms in any month: \$0. ____ per decatherm

Average fee (Sum of Lines A through
D divided by four): \$0. ____ (for evaluation purposes)

*If no transaction fees are to be assessed please enter \$0.00 in the spaces provided above.

Company Bidding: _____

Address: _____

City: _____ State: _____ Zip: _____

Person to Contact: _____ Phone: _____ Fax: _____

Contact's E-mail: _____