

City of Brenham, Texas
Request for Proposals (“RFP”): Firm Natural Gas
Supply Service
RFP NO. 21-009



KEY DATES

RFP Issued: Tuesday, June 22, 2021
MuniGas Call: Monday, June 28, 2021 2:00 PM Central Time
RFP Close: Thursday, July 1, 2021, 10:00 am CT
Award Date: Estimated August 5, 2021

RFP ADMINISTRATION

City of Brenham has contracted with Gas Supply Consulting, Inc. for management of this Firm Natural Gas Supply Service RFP. Please direct any questions regarding this RFP to:

Kim Decell
Gas Supply Consulting, Inc.
EM: kdecell@gassupplyconsulting.com
Cell: (713) 828-3877

REQUIRED PROPOSAL DOCUMENTS

Proposal must include the following documents which are found in Section V.

1. Proposal Form
2. Proposal Submission Authorization
3. Non-Collusion Certificate

PROPOSAL SUBMISSION PROCESS

Proposals may be submitted electronically (preferred) or by mail. Proposal submissions should be sent to:

Kim Decell
Gas Supply Consulting, Inc.
19500 State Hwy. 249, Suite 245
Houston, TX 77070
kdecell@gassupplyconsulting.com

I. GAS SUPPLY SERVICE SPECIFICATIONS	3
A. Term:	3
B. Point of Delivery:	3
C. Supplier’s Gas Supply Management Obligations:	3
D. Quantities:	3
E. Supply Type:	4
F. Pricing:	4
G. Locked Prices:	4
H. Third Party Natural Gas Joint Purchase Contract:	4
I. Notice of Operational Orders Affecting Performance	5
J. Service Priority	5
II. MUNIGAS CONFERENCE CALL	6
III. TERMS AND CONDITIONS FOR PROPOSALS	7
IV. INSURANCE REQUIREMENTS FOR PROPOSALS	9
V. REQUIRED PROPOSAL SUBMISSION DOCUMENTS	10
VI. APPENDIX	14

I. GAS SUPPLY SERVICE SPECIFICATIONS

A. Term:

The City requests proposals for one-year, two-year and three-year service with the following terms:

One-year agreement: November 1, 2021 – October 31, 2022 (“initial term”) and agreement will automatically renew year-to-year thereafter (“renewal term”) subject to each party’s right to provide notice of termination no later than August 31st of the initial term or any renewal term period.

Two-year agreement: November 1, 2021 – October 31, 2023.

Three-year agreement: November 1, 2021 – October 31, 2024.

B. Point of Delivery:

The Point of Delivery for gas sold and purchased hereunder shall be the Oasis Pipeline, LP delivery point City of Brenham, Texas town border station.

C. Supplier’s Gas Supply Management Obligations:

Supplier shall perform all gas supply management activities upstream of the Point of Delivery. It shall be Supplier’s responsibility to ensure that delivered quantities are consistent with actual consumption and Supplier shall be responsible for any imbalance penalties and/or cashout costs assessed by transporters upstream of the Point of Delivery.

D. Quantities:

Supplier will deliver, or cause to be delivered, to the Point of Delivery on a firm basis, and City of Brenham shall purchase from Supplier, one hundred percent (100%) of the City’s natural gas supply needs consisting of actual usage and gas retained as fuel and/or unaccounted for quantities. Other than its obligation to purchase supplies equivalent to one hundred percent (100%) of the City’s natural gas consumption adjusted for fuel retention and, when applicable, any locked price quantities, City of Brenham will have no obligation to purchase a minimum or a maximum daily or monthly quantity of gas.

City’s projected monthly gas use is set forth below:

City of Brenham Projected Gas Use (MMBtu)				
	2021	2022	2023	2024
Jan		71,705	72,187	73,865
Feb		55,335	56,532	59,668
Mar		38,307	39,018	39,307
Apr		30,110	30,334	30,362
May		26,569	26,666	26,379
Jun		23,864	24,161	24,062
Jul		23,460	23,757	23,487
Aug		23,894	24,024	23,690
Sep		23,591	23,947	23,632
Oct		30,259	31,250	32,058
Nov	40,274	41,682	43,347	
Dec	60,582	62,414	63,065	

E. Supply Type:

Proposals are requested for:

- (i) Traditional Supply (supply freeze-off is a Force Majeure event); and
- (ii) Freeze-Off Protection Supply (supply freeze-off is **not** a Force Majeure event).

Note: that City shall place a priority on Freeze-Off Protection supply in the proposal evaluation process.

F. Pricing:

Pricing should be quoted based upon one or more of the following:

1. the first-of-month Index price published by Platts in Inside FERC's Gas Market Report under the heading "Monthly Bidweek Spot Gas Prices" for "Katy" plus or minus any applicable adjustment factor ("FOM IFGMR Katy");
2. the first-of-month Index price published by Platts in Inside FERC's Gas Market Report under the heading "Monthly Bidweek Spot Gas Prices" for "Houston Ship Channel" plus or minus any applicable adjustment factor ("FOM IFGMR HSC");
3. the closing price on the last day of trading of NYMEX gas futures contracts for gas delivered to the Henry Hub for the applicable month plus or minus any applicable adjustment factor ("NYMEX Close");
4. the Daily midpoint price published in Gas Daily under the heading "Final Daily Price Survey" for each Flow Date for "Katy" plus or minus any applicable adjustment factor ("GDDM Katy");
or
5. the Daily midpoint price published in Gas Daily under the heading "Final Daily Price Survey" for each Flow Date for "Houston Ship Channel" plus or minus any applicable adjustment factor ("GDDM HSC").

Note that City shall place a priority on Index First-of-Month and NYMEX Close pricing in the proposal evaluation process.

G. Locked Prices:

Any transaction entered into between City of Brenham and a successful proposer will include a provision that will give the City the option to establish a NYMEX based locked price, a price cap or a price collar; the option may be exercised at any time prior to close of NYMEX trading for the applicable month.

H. Third Party Natural Gas Joint Purchase Contract:

City of Brenham is one of several municipal government gas buyers party to a Joint Purchase Contract with Texas Municipal Gas Corporation II ("TMGC II") and City of La Grange, Texas. TMGC II was formed as a Texas Public Utility Corporation by City of La Grange, Texas and this tax-exempt financing entity sells bonds to pre-pay for long-term natural gas supplies. City of La Grange also formed an entity for marketing the pre-paid gas of TMGC II and its other public utility corporations: Municipal Gas Acquisition and Supply Corporation ("MuniGas").

For purposes of this RFP, City of Brenham is considered a participant in what is broadly called the MuniGas Program. In this program, MuniGas purchases gas each month at a discounted price from its municipal gas supply affiliates and, in turn, sells/delivers the gas at discounted prices to the participating municipal gas buyers such as City of Brenham. The process is coordinated

with the municipal gas buyer's gas through the Supplier Addendum provided in Appendix A. Importantly, the MuniGas Program does not impact the physical delivery and contract pricing agreed to by a municipal gas buyer and its gas supplier.

As set forth in Section II, City will host a conference call with a representative of MuniGas to enable RFP participants to obtain additional information on the MuniGas Program.

I. Notice of Operational Orders Affecting Performance

Supplier shall provide City of Brenham notice of any Operational Flow Order, Force Majeure or other operational notice, whether issued by Supplier or any party upstream of the Point of Delivery, within three (3) hours of Supplier's issuance or receipt of any such notice. In the event Supplier fails to provide timely notice, Supplier shall be liable for any costs associated with such operational notice, including but not limited to pipeline penalties and replacement gas costs in excess of the contract gas price multiplied by the quantity of gas delivered to the Point of Delivery. City and Supplier shall work in good faith to take actions which minimize the operational and/or financial impact associated with such notice.

J. Service Priority

City of Brenham will have a service priority equal to or higher than all other Firm gas supply customers of Supplier.

II. MUNIGAS CONFERENCE CALL

City of Brenham will provide potential proposers with the opportunity to obtain clarified and/or additional information in relation to the MuniGas Program referenced in Section I.H of this Gas Supply RFP by hosting a conference call on:

Monday, June 28, 2021, 2:00 PM Central Time

If you are interested in attending this call, please contact:

Kim Decell
Gas Supply Consulting, Inc.
kdecell@gassupplyconsulting.com
cell (713) 828-3877

If proposer is unable to attend, or prefers to not attend, proposer may submit questions to Kim Decell, Gas Supply Consulting, Inc. at kdecell@gassupplyconsulting.com no later than Friday, June 25, 2021, 2:00 pm CT.

III. TERMS AND CONDITIONS FOR PROPOSALS

Definitions:

In order to simplify the language throughout this request for proposals (“RFP”), the following definitions shall apply:

CITY – OWNER - Same as City of Brenham, Texas.

CONTRACT - An agreement between the City and a Vendor to furnish goods or services over a designated period of time.

VENDOR – The successful proposer of this RFP.

Instructions:

The following instructions apply to all proposals and become a part of terms and conditions of any proposal submitted for consideration by the City of Brenham, unless otherwise specified elsewhere in this RFP.

Proposal:

Proposals must be submitted on the proposal form provided in Section V. Late proposals will not be accepted.

Acceptance:

The City of Brenham reserves the right to accept or reject any or all proposals, to waive any informalities and technicalities, to accept the offer considered most advantageous and/or acceptable, in the City’s sole discretion. City maintains the right to accept a proposal subject to execution of a mutually acceptable contract, in its sole discretion. City utilizes a contract form promulgated by the City.

Award of Contract:

The City of Brenham reserves the right to award the gas supply contract to the proposer that the City determines has submitted an offer considered most advantageous and acceptable to the City, in its sole discretion.

Assignment of Contract:

This contract cannot be transferred or assigned to another party without written consent of the City and may be subject to cancellation by the City if such consent is requested.

Reimbursements:

There is no expressed or implied obligation for the City to reimburse responding firms for any expenses incurred in preparing proposals in response to this Request for Proposals and the City will not reimburse responding firms for these expenses, nor will the City of Brenham pay any subsequent costs associated with the provision of any additional information or presentation, or to procure a contract for these services.

Firm Prices:

Proposers must hold proposal prices firm for ninety (90) days after the proposal submission date to allow the City sufficient time to award a contract. Once a Contract is awarded, the successful proposer must hold proposal prices firm for the duration of the Contract.

Taxes:

The City of Brenham is exempt from Federal Excise, State Sales and Transportation Taxes. TAX MUST NOT BE INCLUDED IN PROPOSAL. The City upon request will execute Tax Exemption Certificates. The City of Brenham is statutorily exempt from State and Local Sales tax and a permit number is not required.

Conflict of Interest:

By doing business or seeking to do business with the City, Vendor acknowledges that they have been notified of the requirements of Chapter 176 of the Texas Local Government Code and that they are solely responsible for compliance.

Applicable Law and Venue

This RFP and the Contract shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Washington County, Texas and venue for any lawsuit, claim or dispute arising out of the contract shall be in Washington County, Texas. Further, neither party will seek to remove such litigation to the federal court system by application of conflicts of laws or any other removal process.

IV. INSURANCE REQUIREMENTS FOR PROPOSALS

Insurance

1. The Vendor shall procure and maintain at its sole cost and expense for the duration of the Contract insurance coverage for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, volunteers, employees or subcontractors. The Contractor's insurance coverage shall be primary insurance with respect to the City, its officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officials, employees or volunteers shall be considered in excess of the Contractor's insurance and shall not contribute to it. Further, the Contractor shall include the City as an additional insured under its policy. All coverage for subcontractors shall be subject to all of the requirements stated herein. Certificates of Insurance and endorsements shall be furnished to the City and approved by the City before work commences.
2. Standard Insurance Policies Required:
 - a) Commercial General Liability Policy
3. General Requirements Applicable to All Policies:
 - a) General Liability insurance shall be written by a carrier with an A: VIII or better rating in accordance with the current Best Key Rating Guide.
 - b) Only Insurance Carriers licensed and admitted to do business in the State of Texas will be accepted.
 - c) Deductibles shall be listed on the Certificate of Insurance and are acceptable only on a per occurrence basis for property damage only.
 - d) "Claims Made" policies will not be accepted.
 - e) The City of Brenham, its officials, employees and volunteers, are to be added as "Additional Insured" to the General Liability policy. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees or volunteers.
 - f) Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice has been given to the City.
 - g) Upon request, certified copies of all insurance policies shall be furnished to the City.
4. Commercial General Liability
 - a) Minimum Combined Single Limit of \$1,000,000.00 per occurrence for bodily injury and property damage.
 - b) No coverage shall be deleted from the standard policy without notification of individual exclusions being attached for review and acceptance.
5. Certificates of Insurance shall be prepared and executed by the insurance company or its authorized agent. And shall contain the following provisions and warranties:
 - a) The company is licensed and admitted to do business in the State of Texas.
 - b) The insurance policies provided by the insurance company are underwritten on forms that have been provided by the Texas Board of Insurance.
 - c) All endorsements and insurance coverage according to requirements and instructions contained herein.
 - d) The form of the notice of cancellation, termination, or change in coverage provisions to the City of Brenham.
 - e) Original endorsements affecting coverage required by this section shall be furnished with the certificates of insurance.

V. REQUIRED PROPOSAL SUBMISSION DOCUMENTS

The following forms must be completed and included with proposer's submission:

- Page 11 Proposal Form
- Page 12 Proposal Submission Authorization
- Page 13 Non-Collusion Certificate



PROPOSAL FORM
 (complete one for each Term and Supply Type)

Proposer Contact Information

Company Name: _____
 Submitting Party Name: _____
 Submitting Party Email: _____
 Submitting Party Phone: _____

Term One-Year Three-Year
(circle one)

Supply Type Traditional No Freeze-Off
(circle one)

Price

Index	Index Adjustment (\$/MMBtu)
FOM IFGMR Katy	\$
FOM IFGMR HSC	\$
NYMEX Close	\$
GDDM Katy	\$
GDDM HSC	\$

Other



PROPOSAL SUBMISSION AUTHORIZATION

- An authorized representative must sign proposals, with the Proposer's address, telephone and email information provided. Unsigned proposals may not be considered.
- If the proposal is made by an individual, the name, mailing address and signature of the individual must be shown.
- If the proposal is made by a firm or partnership, the name and mailing address of the firm or partnership and the signature of at least one of the general partners must be shown.
- If the proposal is made by a corporation, the name and mailing address of the corporation and the signature and title of the person who signs on behalf of the corporation must be shown.
- The CITY reserves the right to request documentation showing the authority of the individual signing the proposal to execute contracts on behalf of anyone, or any corporation, other than himself/herself. Refusal to provide such information upon request may cause the proposal to be rejected as non-responsive.

The undersigned certifies that the information provided above is a true representation of its company's qualifications and agrees to comply with these assurances following award of the RFP and during the performance of the natural gas supply purchase contract, once executed.

Signature: _____

Printed Name: _____

Title: _____ Date: _____



NON-COLLUSION CERTIFICATE

STATE OF _____

COUNTY OF _____

The undersigned, being duly sworn, deposes and says that the person, firm, association, co-partnership or corporation herein named, has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competition in the preparation and submission of a proposal to the City of Brenham for consideration in the award of a natural gas supply purchase contract:

RFP NO. 21-009

(Name of Firm)

By: _____
(Authorized Signature)

Title: _____

Sworn to before me this _____ day of _____, 2021.

Notary Public

NOTARY SEAL:

VI. APPENDIX

SUPPLIER ADDENDUM

As referenced in Section I.H, for purposes of this RFP, City of Brenham is considered a participant in what is broadly called the MuniGas Program. In this program, MuniGas purchases gas each month at a discounted price from its municipal gas supply affiliates and, in turn, sells/delivers the gas at discounted prices to the participating municipal gas buyers such as City of Brenham. The Supplier Addendum is provided on the following pages.

ADDENDUM TO GAS SUPPLY CONTRACT

This Addendum to Gas Supply Contract (this “*Addendum*”), dated as of _____, 2021, among _____, _____ (hereinafter referred to as the “*Buyer*”), (hereinafter referred to as the “*Supplier*”), and BP Energy Company, a Delaware corporation (hereinafter referred to as the “*Dealer*”),

WITNESSETH:

WHEREAS, the Buyer and the Supplier have entered into a contract dated as of (hereinafter, together with extensions and replacements thereof and amendments thereto entered into by the Buyer and the Supplier, referred to as the “*Supply Contract*”), under which, for the term, on the conditions, and up to the maximum amount specified therein, the Supplier has agreed to sell and deliver to the Buyer, at the point or points designated therein or pursuant thereto (hereinafter referred to as the “*Buyer’s Point of Receipt*”), a portion of the Buyer’s requirements for natural gas in accordance with transactions agreed to by them from time to time;

WHEREAS, Municipal Gas Acquisition and Supply Corporation (hereinafter referred to as “*MuniGas*”) has offered to admit the Buyer as a party to a Joint Gas Purchase Contract, dated as of January 1, 2006 (hereinafter, as amended from time to time, referred to as the “*Cooperative Contract*”) under which MuniGas would sell and deliver through the City of La Grange, Texas (herein referred to as the “*Agent*”) to the Buyer, and the Buyer would receive and purchase from the Agent, at the Buyer’s Point of Receipt certain quantities of gas at a lower price than the price of gas delivered to the Buyer by or on behalf of the Supplier pursuant to the Supply Contract;

WHEREAS, in order to enable MuniGas to perform its obligations under the Cooperative Contract without excessive transportation costs for (and to accommodate seasonal imbalances in supply of and demand for) all or a portion of the gas to be sold and delivered to the Buyer pursuant to the Cooperative Contract, MuniGas and the Dealer have entered into a Gas Exchange and Annual Balancing Agreement, dated as of January 1, 2006 (as amended from time to time, herein referred to as the “*Exchange Agreement*”) under which the Dealer is required to deliver certain quantities of gas to MuniGas at the Buyer’s Point of Receipt, from and to the extent of gas sold and delivered to the Dealer by the Supplier pursuant hereto, in exchange for gas delivered by MuniGas to the Dealer at one or more other locations;

WHEREAS, the Supplier is willing to enter into this Addendum to sell and deliver gas to the Dealer at the Buyer’s Point of Receipt and to reduce the quantities of gas required to be received and purchased by the Buyer from the Supplier at the Buyer’s Point of Receipt pursuant to the Supply Contract; and

WHEREAS, although the gas sales agreement between the Supplier and the Dealer and the amendment to the Supply Contract between the Buyer and the Supplier, respectively, are being documented together in this Addendum for convenience, they are independent two-party transactions for which other parties to this Addendum bear no liability (except only as expressly stated herein);

NOW, THEREFORE, for and in consideration of the premises and of the mutual covenants, agreements, conditions, and undertakings herein set forth, the parties hereto agree as follows:

1. Sale and Delivery to the Dealer. On each day while the Supply Contract and this Addendum are in effect, the Supplier shall sell and deliver to or for the account of the Dealer, and the Dealer shall receive or cause to be received and purchased from the Supplier, at the Buyer’s Point of

Receipt and for the same price as the price for gas sold and delivered by the Supplier to the Buyer pursuant to the Supply Contract, quantities of gas equal to the Supplier's Share of the quantities of gas nominated and confirmed for delivery to the Buyer at the Buyer's Point of Receipt on such day pursuant to the Cooperative Contract, but not more than the lesser of (a) the maximum quantity of gas then required to be sold and delivered by the Supplier to the Buyer at the Buyer's Point of Receipt pursuant to the Supply Contract, determined without giving effect to *Section 2* hereof, or (b) the Supplier's Share of the quantity of gas which MuniGas schedules for delivery to the Buyer on such day at the Buyer's Point of Receipt. Such sale and purchase of gas between the Supplier and the Dealer shall be made on the same terms (including warranties and indemnities of the Supplier and the effect of *force majeure*) and subject to the same conditions as the terms and conditions of the Supply Contract to the same extent and for all purposes as if the Supplier and the Dealer had entered into the Supply Contract, except as otherwise provided herein and except that the Dealer shall not make (and shall not be deemed to have made) any representations, warranties, covenants, or certifications of the Buyer or the Supplier under the Supply Contract and the Supplier shall not have the right to audit the Dealer's books and records. If more than one price is set forth in the Supply Contract for gas sold and delivered thereunder by the Supplier (e.g., due to graduated volume discounts), the price for gas sold to the Dealer pursuant to this paragraph shall be the weighted average price (determined in accordance with *Section 3* hereof) for gas sold and delivered by the Supplier to the Buyer pursuant to the Supply Contract. The Buyer and the Supplier acknowledge that the net amounts payable by the Buyer to the Supplier pursuant to the Supply Contract (as amended by this Addendum) shall equal the amounts payable by the Buyer to the Supplier pursuant to the Supply Contract (determined as if not amended by this Addendum), less the amounts payable by the Dealer to the Supplier pursuant to this Addendum. As used herein, the "**Supplier's Share**" for any day or month is equal to a fraction, the numerator of which is equal to quantity of gas then required to be sold and delivered by the Supplier to the Buyer at the Buyer's Point of Receipt pursuant to the Supply Contract, determined without giving effect to *Section 2* hereof, and the denominator of which is equal to the aggregate quantities of gas then required to be sold and delivered to the Buyer at the Buyer's Point of Receipt by the Supplier and all other gas producers and dealers who have entered into Addenda with the Buyer and the Dealer substantially similar to this Addendum (determined without giving effect to such Addenda). If the Buyer specifies a Supplier's Share that causes the limitations described in this Section to be exceeded, then such confirmation shall be deemed to confirm a sale from the Supplier to the Buyer, rather than to the Dealer, to the extent of any such excess. The Buyer shall receive from MuniGas at the Buyer's Point of Receipt all gas there delivered by the Supplier to the Dealer hereunder, and the Dealer shall be obligated to receive gas from the Supplier hereunder only to the extent of such receipt by the Buyer.

2. ***Sale and Delivery to Buyer.*** The quantity of gas to be sold and delivered by the Supplier to the Buyer and received and purchased by the Buyer from the Supplier at the Buyer's Point of Receipt pursuant to the Supply Contract on each day shall be reduced by the quantity of gas sold and delivered by the Supplier to or for the account of the Dealer at the Buyer's Point of Receipt pursuant to *Section 1* hereof, and the Buyer and the Supplier release each other from all obligations under the Supply Contract relating to such quantity of gas, other than the representations, warranties, covenants, and certifications of the Buyer in respect thereof that are not made by the Dealer hereunder. If more than one price is set forth in the Supply Contract for gas sold and delivered thereunder by the Supplier, then the price at which such reduced quantity of gas shall be sold to and purchased by the Buyer thereunder shall be equal to the weighted average price referred to in *Section 1* hereof.

3. ***Payments.*** The Buyer shall send (or shall cause the Supplier to send) a copy of each transaction confirmation to MuniGas when and as issued or received, and the Buyer shall also compute and, on or before the last business day of each month, shall notify MuniGas and the Supplier of the Supplier's Share of all gas confirmed for delivery by MuniGas to the Buyer at the Buyer's Point of Receipt in such month pursuant to the Cooperative Contract. MuniGas shall provide a copy of the transaction confirmation to Dealer upon request. To the extent of gas delivered by the Supplier at the

Buyer's Point of Receipt in such month, the Supplier's Share of the quantities so notified by MuniGas shall be deemed to be delivered to the Dealer, rather than to the Buyer, in such month, subject to the further provisions of this paragraph. The Supplier shall cause such deliveries to be invoiced to the Dealer, at the price referred to in *Section 1* hereof, by the 10th day of the following month, and the Dealer shall pay for such deliveries by the later of the 25th day of such following month or 10 days after receipt of such invoice or, if the day for such payment is not a Business Day, then on the next Business Day. All other gas delivered by the Supplier at the Buyer's Point of Receipt in such month shall be deemed to be delivered and shall be invoiced by the Supplier to the Buyer at the same price in accordance with the provisions of the Supply Contract. Solely for purposes of computing any applicable weighted average price, all gas sold and delivered by the Supplier to the Buyer or the Dealer at the Buyer's Point of Receipt in such month pursuant to this Addendum or the Supply Contract shall be deemed to have been sold and delivered to the Buyer. The Dealer shall be entitled to net and set off amounts owing to Supplier hereunder against any other amounts owed by the Supplier to the Dealer under any other agreement between the Supplier and the Dealer. The Buyer does not guaranty and shall not be liable for any payment owed by any other party hereto to any other party hereto.

4. **No Liability; Indemnity.** Nothing herein shall make MuniGas or the Dealer a party to the Supply Contract or obligated thereunder. The Supplier and the Buyer agree that the Dealer shall not be liable under any theory to the Supplier or the Buyer for (a) any breach by the Buyer of any term of the Supply Contract, the Cooperative Contract, this Addendum, or any other contract to which the Buyer is a party, (b) any breach by the Supplier of any of the terms of the Supply Contract, this Addendum, or any other contract to which it is a party, or (c) any breach by either the Supplier or the Buyer, or their agents, of any duty of care, law, regulation, or other legal obligation applicable to it, for gas sold and delivered by the Supplier to the Buyer (or to the Dealer hereunder) pursuant to the Supply Contract or any other supply arrangement applicable to any third party seller of gas to the Buyer (or to the Dealer hereunder). The Dealer and the Buyer agree that the Supplier likewise shall not be liable under any theory to the Buyer or the Dealer for (a) any breach by the Buyer of any term of the Supply Contract, the Cooperative Contract, or any other contract to which the Buyer is a party, (b) any breach by the Dealer of any of the terms of the Exchange Agreement or any other contract to which it is a party, or (c) any breach by either the Dealer or the Buyer of any duty of care, law, regulation, or other legal obligation applicable to it, for gas sold or exchanged and delivered by the Dealer pursuant to the Exchange Agreement. In addition, the Dealer shall have no obligation to nominate or confirm for delivery any quantity of gas for any period. Except for the obligations to receive and purchase gas at the price described in *Section 1*, the Dealer shall have no obligations or liabilities in favor of the Supplier or any other person hereunder or under the Supply Contract (whether or not in the context of *force majeure*), including, without limitation, obligations or liabilities (i) for taxes, warranties of title or merchantability, royalties, indemnities, scheduling fees, imbalance charges, overpull or unauthorized gas penalties or charges, operational flow order penalties or charges, or similar costs, or losses resulting from the liquidation of hedge positions or (ii) to maintain or operate any measurement or transportation facilities, to manage transportation contracts or pipeline capacity, to enter into financial hedge transactions with the Buyer, to provide risk management services or consulting services of any type (including, but not limited to, hedging strategies, projecting gas supply costs and fuel requirements, or regulatory services), to pay any early termination damages or cover damages, to provide security or collateral, to provide any type of fixed price, trigger price, or other risk management products to Buyer, or to act as agent in any capacity for Buyer or Supplier under the Supply Contract. The obligations of the Dealer to the Supplier hereunder shall not be affected by any failure by MuniGas to observe and perform its obligations under the Exchange Agreement or any imbalance existing thereunder. The Supplier acknowledges that any event which constitutes force majeure or otherwise excuses performance by the Buyer under the Supply Contract or by MuniGas under the Exchange Agreement or Cooperative Contract with respect to any receipt or purchase of gas supplied pursuant to this Addendum, including any breach by contractual counterparties under any related contract that has such effect, shall excuse performance by the Dealer hereunder.

The Supplier shall indemnify the Dealer and hold it harmless from and against any loss, cost or liability accruing to the Dealer resulting from (a) any claim by the Buyer or any other person of breach by the Supplier of, or negligence or misconduct by the Supplier in performance under, the Supply Contract or this Addendum, or breach of any duty of care, law, regulation, or other legal obligation applicable to the Supplier in connection therewith or herewith, (b) any claim which attaches before title to gas sold and delivered by the Supplier to the Dealer hereunder passes to the Dealer, and (c) any failure of gas sold and delivered by the Supplier to the Dealer hereunder to meet quality standards under the Supply Contract.

5. ***Nondisclosure by Dealer.*** The Dealer shall not disclose to any person the terms of the Supply Contract (the “***Confidential Information***”) except for disclosures of such terms (i) to Municipal Energy Resources Partners, Ltd. (“***MERP***”), Municipal Energy Resources Corporation (“***MERC***”), MuniGas, and directors, officers, employees, contractors, auditors, agents, and representatives of and counsel to the Dealer and the Dealer’s parent companies and affiliates (the “***Representatives***”), MERP, MERC, or MuniGas who need the Confidential Information for purposes of performing the services provided under this Addendum, the Exchange Agreement, and all other documents executed by Dealer in connection herewith and therewith or (ii) that are requested or required (by oral questions, interrogatories, requests for information or documents in legal proceedings, subpoena, civil investigative demand, or other similar process) to be disclosed or otherwise are required to be disclosed by law or in connection with legal proceedings regarding this Addendum, or the Exchange Agreement or the enforcement hereof or thereof. Notwithstanding the foregoing, the following will not constitute Confidential Information for purposes of this Addendum, or the Exchange Agreement: (i) information which is or becomes generally available to the public other than as a result of a disclosure by the Dealer or its Representatives; (ii) information which was already known to the Dealer on a nonconfidential basis prior to being furnished to the Dealer by the Supplier or the Buyer; and (iii) information which becomes available to the Dealer on a nonconfidential basis from a source other than the Supplier or the Buyer or a representative of the Supplier or the Buyer, if such source was not subject to any prohibition against transmitting the information to the Dealer and was not bound by a confidentiality agreement with the Supplier or the Buyer.

6. ***Governing Law.*** This Addendum shall be governed by and construed in accordance with the laws of the State of Texas.

7. ***Notices.*** Except as otherwise provided in this Addendum, any notice, request, demand, statement, bill, or other document required to be given to any party by this Addendum, and any notice which any party hereto may desire to give any other party hereto, shall be in writing and will be considered duly delivered when mailed by registered mail, return receipt requested, or sent by facsimile or electronic transmission with receipt acknowledged, to the address or number of the receiving party listed opposite its signature below or to any other address or number previously furnished in writing for such purpose by the receiving party to the other parties hereto.

8. ***Successors and Assigns.*** The provisions of this Addendum shall be binding upon and inure to the benefit of the successors and assigns of each of the parties hereto. No party hereto may assign any of its rights or obligations hereunder without the consent of the other parties hereto, except to a trustee, individual or corporate, as security for bonds, securities, or other contractual obligations. No such consent shall be unreasonably withheld, *provided* that any party may refuse so to consent if the assignee does not meet such party’s credit requirements. Upon such consent and assignment, the assigning party shall be released from all further liability hereunder, unless otherwise agreed by it.

9. ***Waivers.*** No waiver by any party hereto of any default by any other party hereto in the observance or performance of any provision of this Addendum shall operate as a waiver of any future default, whether of a like or of a different character.

10. **Relationship Between the Parties.** In connection with the negotiation of, the entering into, and the confirming of the execution of this Contract, each party acknowledges and agrees: (i) it is acting as principal (and not as agent or in any other capacity, fiduciary or otherwise); (ii) the other party is not acting as a fiduciary or financial or investment advisor for it; (iii) it is not relying upon any representations (whether written or oral) of the other party; (iv) the other party has not given to it (directly or indirectly through any other person) any advice, counsel, assurance, guaranty, or representation whatsoever as to the expected or projected success, profitability, return, performance, result, effect, consequence, or benefit (either legal, regulatory, tax, financial, accounting, or otherwise) of this Contract; (v) it has consulted with its own legal, regulatory, tax, business, investment, financial, and accounting advisors to the extent it has deemed necessary, and it has made its own investment, hedging, and trading decisions based upon its own judgment and upon any advice from such advisors as it has deemed necessary, and not upon any view expressed by the other party; (vi) all trading decisions have been the result of arm's length negotiations between the parties; and (vii) it is entering into this Contract with a full understanding of all of the risks hereof and thereof (economic and otherwise), and it is capable of assuming and willing to assume those risks (economic and otherwise).

11. **Entire Addendum.** This Addendum and the Supply Contract contain the entire agreement among the parties, and except as stated herein or therein there are no oral promises, agreements, warranties, obligations, or conditions, precedent or otherwise, affecting it.

12. **Amendments.** Any change, modification, or alteration of this Addendum shall be in writing, signed by the parties hereto, and no course of dealing between or among any parties hereto shall be construed to alter any term hereof, except as expressly stated herein. No amendment to the Supply Contract shall affect the rights and obligations of the Dealer hereunder (other than changing the price at which gas is to be purchased by it hereunder) unless approved in writing by the Dealer. The Buyer shall provide the Dealer and MuniGas with a copy of each such amendment promptly after execution thereof.

13. **Severability.** Except as otherwise stated herein, if any provision hereof or application thereof shall be declared or rendered unlawful by a court of law or regulatory agency with jurisdiction over any party hereto or deemed unlawful because of a statutory change, the remaining applications thereof and provisions of this Addendum shall nevertheless remain valid and enforceable.

14. **Corporate Obligations.** No recourse under or upon any obligation, covenant, or agreement contained in this Addendum, or for any claim based thereon or otherwise arising in respect thereof, shall be had against any incorporator or sponsor, or against any past, present, or future director, officer, employee, or member of the governing body, as such, of any party hereto or of any successor, or against any person or entity with whom any such party has contracted for goods or services, either directly or through such party, whether by virtue of any constitution or statute or rule of law, or by the enforcement of any assessment, judgment, or penalty, or otherwise; it being expressly understood that this Addendum is solely a corporate obligation, and that no such personal liability whatever shall attach to, or is or shall be incurred by, the incorporators, sponsors, directors, officers, or employees, as such, of such party or any successor, or any member of its governing body, or any such contracting person, or any of them, by reason of the obligations, covenants, or agreements contained in this Addendum or implied therefrom, and that any and all such personal liability either at common law or equity or by constitution or statute of, and any and all such rights and claims against, every such incorporator, sponsor, member, director, officer, employee, or person, as such, are hereby expressly waived and released as a condition of, and in consideration for, the execution of this Addendum.

15. **Government Regulation.** The delivery and receipt of gas by the Dealer, the Buyer, and the Supplier or their designees hereunder are subject to all valid laws with respect to the subject matter hereof and to all valid present and future orders, rules, and regulations of duly constituted governmental authorities having jurisdiction.

16. **Benefits of Contract.** Nothing in this Addendum, expressed or implied, shall give any benefit or any legal or equitable right, remedy, or claim under this Addendum to any person or entity other than the parties hereto, MuniGas, and their successors and assigns permitted hereby.

17. **Effective Date.** Notwithstanding the date hereof, this Addendum shall not become operative or effective until the first day of the month following the later of (1) the effective date for qualification of the Buyer as a “Participant” under the Exchange Agreement and (2) first effective date for designation of a “Dealer’s Point of Receipt” under the Exchange Agreement.

18. **Term and Termination.** This Addendum shall extend for a period of 30 years unless sooner terminated pursuant to this Section. This Addendum shall terminate on the earliest of (a) the cancellation, termination, or expiration of the Supply Contract, (b) the extension, renewal, modification, amendment, or replacement of the Supply Contract in a manner that adversely affects the rights and obligations of the Dealer hereunder (other than by changing the price at which gas is to be purchased by it hereunder) without the prior written approval of the Dealer, or (c) cancellation, termination, or expiration of the Exchange Agreement or of the rights and obligations of the Buyer under the Cooperative Contract. The Buyer, the Supplier, and the Dealer shall give the other parties notice of any such event which is known to it and would result in the termination of this Addendum. In addition, the Supplier may terminate this Addendum on account of any default by the Dealer in paying its obligations hereunder on the same terms and conditions as the Supplier may terminate the Supply Contract on account of any such default by the Buyer in paying its obligations thereunder. No such termination shall affect the obligations of the Supplier to indemnify the Dealer.

[Signature page follows]

Supplier's Addresses and Nos.:

_____, as Supplier

Telephone: () -
Facsimile: () -
Internet:

By:
Name:
Title:

Dealer's Addresses and Nos.:

BP ENERGY COMPANY, as Dealer

BP Energy Company
201 Helios Way
Houston, Texas 77079
For Confirmations:
Telephone: (713) 323-1866
Facsimile: (713) 323-4934

By:
Name:
Title:

For invoices and payments:
Attn: Gas Accounting
Telephone: (713) 323-4919
Facsimile: (713) 323-5935

For all other communications:
Attn: Contract Administration
Telephone: (713) 323-2000
Facsimile: (713) 323-0203

Buyer's Addresses and Nos.:

_____, as Buyer

Telephone: () -
Facsimile: () -
Internet:

By:
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have duly authorized and caused this Addendum to be executed as of the date first hereinabove written in multiple originals.