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RESOLUTION NO. RES-05-0002

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH PROVIDING FOR THE ADOPTION OF FORMS OF AMENDMENTS, RESTATEMENTS AND ASSIGNMENTS OF EXISTING LOCALLY PRODUCED NATURAL GAS PURCHASE CONTRACTS BETWEEN THE CITY OF LONG BEACH AND VARIOUS LOCAL PRODUCERS OF NATURAL GAS

WHEREAS, the City of Long Beach (the "City"), acting through the Long Beach Energy Department ("LBE"), has entered into agreements ("Agreements") to purchase natural gas from various local producers ("Local Producers");

WHEREAS, the mechanisms for calculating the prices to be paid by the City to the various Local Producers under the existing Agreements are now obsolete;

WHEREAS, the requirements placed upon the quality of the gas delivered by the Local Producers need to be updated in order to comply with the current quality standards of the industry;

WHEREAS, some of the Agreements have already expired and the others have varying termination dates, causing certain inefficiencies when LBE projects its future natural gas needs and its supply for such needs;

NOW, THEREFORE, the City Council of the City of Long Beach resolves as follows:

Section 1. The City Manager shall be authorized to execute the form of Amendment to Locally Produced Natural Gas Agreements attached hereto as Exhibits A and B in order to amend price calculation mechanisms and extend the term of the existing Agreements where necessary.

Sec. 2. The City Manager shall be authorized to execute the form of

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1 Amended and Restated Locally Produced Natural Gas Agreements attached hereto as
2 Exhibit C in order to amend natural gas quality specifications and amend the
3 termination date of the Agreements so that all are co-terminous.

4 Sec. 3. The City Manager shall be authorized to execute the form of
5 Assignment Consent Agreement to evidence the City's consent to proposed
6 assignments of the Agreements.

7 Sec. 4. This resolution shall take effect immediately upon its adoption by
8 the City Council, and the City Clerk shall certify the vote adopting this resolution.

9 I hereby certify that the foregoing resolution was adopted by the City
10 Council of the City of Long Beach at its meeting of March 1, 2005, by the
11 following vote:

12 Ayes: Councilmembers: Lowenthal, Baker, Colonna,
13 O'Donnell, Richardson,
14 Reyes Uranga, Gabelich, Lerch.

15 Noes: Councilmembers: None.

16 Absent: Councilmembers: Kell.

17
18 
19 City Clerk

20 RFA:L:\APPS\CtyLaw32\WPDOCS\ID008\IP004\00070384.WPD #04-05237

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EXHIBIT A

**AMENDMENT TO NATURAL GAS SALES AND PURCHASE
AGREEMENT FOR LOCALLY PRODUCED GAS**

This _____ Amendment to the Natural Gas Sales and Purchase Agreement for Locally Produced Gas ("Amendment") is made by and between the CITY OF LONG BEACH ("City"), and _____, a _____ ("Company").

WHEREAS, a Natural Gas Sales and Purchase Agreement for Locally Produced Gas (as amended, the "Agreement") dated _____ was entered into between City and Company; and

WHEREAS, Company was advised by City that effective February 1, 2005, the price paid for gas under the Agreement shall be calculated based upon the Core Procurement Gas Price published by the Southern California Gas Company for the month in which the deliveries occur; and

WHEREAS, the parties agreed to amend the Agreement to change the price paid for gas; and

WHEREAS, on _____, the Long Beach City Council approved minute orders to amend the price paid by City for gas under the Agreement;

NOW THEREFORE, the parties mutually agree as follows:

1. Notwithstanding anything to the contrary contained in the Agreement with respect to the price to be paid by City to Company for deliveries of gas to City by Company, including without limitation pricing structures incorporating pricing tiers, effective February 1, 2005, the price per MMBTU to be paid for gas deliveries in any given month by City to Company under the Agreement shall be adjusted each month and shall be equal to the Core Procurement Gas Price published by the Southern California Gas Company for the given month.

2. The Agreement shall terminate at midnight on _____, 2005.

3. All of the terms and conditions of the Agreement and any amendments thereto, except as amended herein, shall remain unchanged and in full force and effect.

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IN WITNESS WHEREOF, the parties have each caused this Amendment to be duly executed by its duly authorized officer as of the date first written above.

"COMPANY"

[COMPANY]

BY _____
NAME _____
TITLE _____

BY _____
NAME _____
TITLE _____

"CITY"

CITY OF LONG BEACH

BY _____
City Manager

The foregoing document is approved as to form.
ROBERT E. SHANNON, City Attorney

Dated: _____, 20__ By: _____
Deputy

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EXHIBIT B

**AMENDMENT TO NATURAL GAS SALES AND PURCHASE
AGREEMENT FOR LOCALLY PRODUCED GAS**

This _____ Amendment to the Natural Gas Sales and Purchase Agreement for Locally Produced Gas ("Amendment") is made by and between the CITY OF LONG BEACH ("City"), and _____, a _____ ("Company").

WHEREAS, a Natural Gas Sales and Purchase Agreement for Locally Produced Gas (as amended, the "Agreement") dated _____ was entered into between City and Company; and

WHEREAS, Company was advised by City that effective February 1, 2005, the price paid for gas under the Agreement shall be calculated based upon the Core Procurement Gas Price published by the Southern California Gas Company for the month in which the deliveries occur; and

WHEREAS, the parties agreed to amend the Agreement to change the price paid for gas; and

WHEREAS, on _____, the Long Beach City Council approved minute orders to amend the price paid by City for gas under the Agreement;

NOW THEREFORE, the parties mutually agree as follows:

1. Notwithstanding anything to the contrary contained in the Agreement with respect to the price to be paid by City to Company for deliveries of gas to City by Company, including without limitation pricing structures incorporating pricing tiers, effective February 1, 2005, the price per MMBTU to be paid for gas deliveries in any given month by City to Company under the Agreement shall be adjusted each month and shall be equal to the Core Procurement Gas Price published by the Southern California Gas Company for the given month.

2. The term of the Agreement shall be extended to _____, 2005.

3. All of the terms and conditions of the Agreement and any amendments thereto, except as amended herein, shall remain unchanged and in full force and effect.

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IN WITNESS WHEREOF, the parties have each caused this Amendment to be duly executed by its duly authorized officer as of the date first written above.

“COMPANY”

[COMPANY]

BY _____
NAME _____
TITLE _____

BY _____
NAME _____
TITLE _____

“CITY”

CITY OF LONG BEACH

BY _____
City Manager

The foregoing document is approved as to form.
ROBERT E. SHANNON, City Attorney

Dated: _____, 20__ By: _____
Deputy

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EXHIBIT C

**NATURAL GAS DELIVERY AGREEMENT
FOR LOCALLY PRODUCED GAS**

This Natural Gas Delivery Agreement for Locally Produced Gas (this "Agreement") is dated for reference purposes as of _____, 20__, is made by and between the CITY OF LONG BEACH ("City"), a municipal corporation, and _____ ("Company"), a _____ and is created pursuant to minute order adopted by the City Council of the City of Long Beach on _____, 20__, for the delivery of locally produced natural gas processed by Company into City's pipeline to supply a portion of City's gas requirements.

NOW, THEREFORE, in consideration of the mutual agreements and undertakings set forth below, the parties agree as follows:

SECTION 1. TERM

1.1 This Agreement shall be effective on _____, 20__ and shall be in effect until December 31, 2005, subject to the terms and conditions set forth herein. Either party hereto may terminate this Agreement at any time by giving the other party sixty (60) days prior written notice.

SECTION 2. DEFINITIONS

For the purpose of this Agreement, the letters, words, phrases, and terms used herein shall be used in the ordinary meaning unless this Agreement clearly indicates otherwise. The following letters, words, phrases and terms are hereby defined as follows:

2.1 "BTU" shall refer to British Thermal Unit, which is the standard unit for measuring a quantity of thermal energy.

2.2 "Day" shall mean a period of twenty-four (24) consecutive hours commencing at 12:01 a.m. local time and ending at 12:00 midnight local time.

2.3 "Delivery Point" shall mean the connection between the outlet of the Processing Facility and the inlet of the Metering Station, designated on Exhibit "A" attached hereto as the Point of Connection. >

2.4 "gas" shall mean dry natural gas produced from gas wells and treated dry gas produced in connection with oil.

2.5 "Local Gas Price" shall mean a price equivalent to the "Cost of Gas" under the Southern California Gas Company's Core Procurement Gas Service Schedule No. G-CP for any given month, as posted on the Southern California Gas Company's website from time to time.

2.6 "Locally Produced Gas" shall mean all gas delivered directly into City's pipeline system (as distinguished from gas transported via pipeline into Long Beach) other than State Tidelands Gas.

2.7 "MCF" shall mean one thousand (1,000) Standard Cubic Feet.

2.8 "Metering Station" shall mean all pipe, gauges, gas chromatographs, flow computers, meters, valves, regulators, filters, fittings, odorizer and other equipment installed, owned and operated by City downstream of the Delivery Point.

2.9 "Month" shall mean the period commencing on the first day of a calendar month and ending at the end of the last day of the same calendar month.

2.10 "MMBTU" shall mean one million (1,000,000) BTUs.

2.11 "Processing Facility" shall mean the area which includes all connecting pipelines, meters, regulators, filters, odorizer (if required) and all other equipment necessary for Company to process Locally Produced Gas for City.

2.12 "psia" shall mean pounds per square inch absolute.

2.13 "psig" shall mean pounds per square inch gauge.

2.14 "Required Specifications" shall mean those specifications set forth in Exhibit "B" attached hereto and incorporated herein by reference, or such other specifications as may be required pursuant to Section 6.3 hereof.

2.15 "Standard Cubic Foot" shall mean the volume of gas contained in one (1) cubic foot of space in accordance with the standards prescribed in the appropriate American Gas Association publication, as amended from time to time.

2.16 "State Tidelands Gas" shall mean all gas produced and owned by the State of California or its agents and delivered directly into City's pipeline system.

2.17 "Unit of Measurement" shall mean one (1) MMBTU.

SECTION 3. QUANTITY TO BE DELIVERED

3.1 Subject to the terms and conditions of this Agreement, City agrees to take, on a best efforts basis, all Locally Produced Gas delivered to City by Company. Company agrees to provide City with an estimate of deliveries at the start of each month and notification of any daily fluctuations from this estimate during such month.

3.2 Subject to City's gas requirements and storage capabilities, the parties recognize and agree that City has no obligation under this Agreement to purchase and receive any specified minimum quantity of gas from Company for any given period during the term of this Agreement. Further, City represents that City does not have significant

storage capabilities to accept substantial gas volumes at any specified time in excess of its immediate daily requirements. City's daily requirements may fluctuate substantially depending upon weather conditions or other external events.

3.3 City shall give preference to acceptance of gas into its pipeline system in the following order: (1) State Tidelands Gas, (2) Locally Produced Gas, and (3) all other gas purchases including that gas which requires transportation from the California border by intrastate pipelines into City's pipeline system.

3.4 The parties recognize and agree that Company's obligation to deliver and City's obligation to receive gas hereunder is subject to Company's ability to deliver and City's available capacity in the pipeline utilized to transport such gas, the need for such gas and other factors affecting operations and maintenance of City's pipeline facilities.

SECTION 4. PERMITS

4.1 City's acceptance of gas under this Agreement is conditioned upon the continuing effectiveness of a South Coast Air Quality Management District ("SCAQMD") permit for installation of an odorizer at the Metering Station. Execution of this Agreement by Company obligates Company to timely reimburse City for all permits paid for by City. Any renewal fee will be paid by City and Company shall reimburse City within thirty (30) days after receiving a statement of billing from City advising Company of the amount of such renewal fee.

4.2 Company shall obtain, at Company's expense, all necessary permits and approvals for construction and placement of all concrete work, fences and equipment for the Processing Facility, except as specifically set forth herein. City's execution of this Agreement shall not be considered a waiver or approval of any permitting process, including but not limited to, those required by City's Harbor Department, or of the zoning and permit requirements as presently exist by ordinance, statute and procedural rules of City and the State of California.

SECTION 5. DELIVERY POINT

5.1 Company shall deliver the gas purchased hereunder to City at the Delivery Point. Title to all gas delivered hereunder shall pass from Company to City at the Delivery Point.

5.2 Except as otherwise set forth herein, Company shall be deemed to be in control and possession of the gas and responsible for any damage, or injury, or risk of loss of such gas prior to City's receipt at the Delivery Point, after which City shall be deemed to be in exclusive control and possession thereof and responsible for any damage, injury, or risk of loss of gas caused thereby, except where such damage is attributable to Company's failure to meet any of the requirements of this Agreement.

5.3 The location of the Delivery Point may be changed by mutual written agreement of the parties executed with the same formality as this Agreement.

SECTION 6. QUALITY

6.1 Any gas delivered to City hereunder shall meet the Required Specifications. If City determines in its sole discretion that gas delivered by Company to City hereunder does not comply with the Required Specifications, City may notify Company of such non-compliance and Company shall have four (4) hours from receipt of such notice to correct such non-compliance. After the expiration of such four (4) hour period City shall not be obligated to accept delivery, receive or pay for any gas which does not meet the Required Specifications. City shall not be obligated to notify Company of non-compliance with the Required Specifications and shall not be liable for any failure to do so.

6.2 The gas shall be delivered into the Metering Station at a minimum pressure of 50 psig and a maximum pressure of 150 psig. Company shall provide an automatic shut-off device at the Processing Facility to insure that the maximum pressure limit is not exceeded. In addition, and as permitted by law, Company shall provide a pressure relief device which will open if pressure exceeds the maximum limit and the automatic shut off device fails to operate.

6.3 If any governmental entity or agency having authority over the gas quality standards requires City to adhere to more stringent quality specifications than those set forth in Exhibit "B", then City shall deliver notice of such requirements to Company and within seven (7) days thereof Company, at its own cost and expense, shall meet the quality standards required by such governmental entity or agency. In the event Company elects not to change specifications as requested in the notice, Company may terminate this Agreement by service of written notice upon City as provided herein, within sixty (60) days after receipt of the notice of change.

SECTION 7. MEASUREMENT

7.1 The volume of Gas delivered to the Delivery Point, as measured in MCF, shall be corrected to the Unit of Measurement. The measurement and determination of Gas delivered shall be made in accordance with the applicable reports of the American Gas Association, as amended from time to time, which will be provided to Company upon request.

7.2 Company's deliveries of gas hereunder shall be calculated from the measurements taken at the meter installed, operated and maintained by City at the Delivery Point, and from the heating value determined by the instruments operated by City. Company shall have the right to inspect and verify the calibration and accuracy of such measuring devices at all reasonable times. In the event a significant inaccuracy is discovered, City shall, upon notice from Company, promptly make all necessary repairs or adjustments, and adjust the basis for all affected payments on a retroactive basis. Company shall reimburse City for all costs associated with such repairs or adjustments provided that the malfunction of the measuring devices was not due to City's negligence. Company shall reimburse City for all such costs within thirty (30) days of receiving an invoice from City.

7.3 On or before the fifteenth (15th) day of the succeeding calendar month, City shall submit to Company a statement indicating City's measurement of Gas delivered at the Metering Station for the preceding calendar month.

SECTION 8. PRICING AND FEES

8.1 City shall pay Company monthly for gas delivered by Company and accepted into City's pipeline system according to the terms and conditions set forth in this Agreement. The gas price under this Agreement shall be paid based upon MMBTU and shall be adjusted each month and paid according to Company's monthly volume delivered and accepted into City's pipeline system. The price paid for any given month shall be equal to the Local Gas Price for that month. City shall have no obligation whatsoever to pay Company for gas accepted into City's pipeline system if such gas does not meet the Required Specifications. If for any reason it becomes impossible to determine the Local Gas Price, then City shall have no obligation whatsoever to pay Company for gas accepted into City's pipeline, and Company shall have no obligation whatsoever to deliver such gas, until such time as the parties have agreed upon an alternative price and have amended this Agreement in writing.

8.2 Company shall pay to City a monthly per meter fee ("Service Fee") equal to the City's costs and expenses related to delivery of gas into the Metering Station. Notwithstanding the foregoing, in no event shall such service fee be less than One Thousand Dollars (\$1,000) per month per meter.

8.3 All production, severance, excise, ad valorem and any other similar taxes imposed or levied by federal, state, or any other governmental entity on the gas delivered herein, shall be paid by Company prior to its delivery to City at the Delivery Point. Company shall hold City harmless from any liability against all such taxes. Nothing contained herein shall be construed as applying to any tax imposed on City after the Delivery Point or after title and possession of the gas have passed to City. Neither party shall be responsible or liable for any ad valorem taxes or other statutory charges which are levied or assessed against any of the facilities of the other party used for the purpose of carrying out the provisions of this Agreement.

8.4 Company shall purchase all equipment, construct all facilities and obtain all permits necessary for processing gas to meet the Required Specifications.

8.5 Company shall reimburse City for all costs associated with the planning, design, purchase, installation, maintenance and operation of a suitable Metering Station, together with connecting lines to the nearest suitable gas main, including but not limited to the pipeline, meter, regulators, separator, sampler, detection equipment, filter and odorizer equipment. Company shall reimburse City for all such costs within thirty (30) days of receiving an invoice from City.

8.6 If Company's Processing Facility is relocated, Company shall be obligated to pay, or reimburse City, for all costs associated with the removal and relocation, construction, and installation of a new Metering Station, together with connecting lines to

the nearest suitable gas main, including but not limited to the pipeline, meter, regulators, separator, sampler, detection equipment, filter, gas chromatographs, flow computers and odorizer equipment. Company shall reimburse City for any costs associated with relocation within thirty (30) days of receiving an invoice from City.

SECTION 9. BILLING AND PAYMENT

9.1 The Service Fee shall be due on the first day of each month for the month of service.

9.2 Each party hereto shall have the right, at any and all reasonable times, for a period up to two (2) years after the date of billing to examine the books and records of the other party, to the extent necessary to verify the accuracy of any statement, charge, computation or demand made under this Agreement. There shall be no adjustment after such two (2) year period for gas delivered hereunder unless written notice of claim had been previously made to the other party which specifies with some particularity the basis for claim or objection.

SECTION 10. TITLE TO GAS AND EQUIPMENT

10.1 Company represents that it has lawful written authority to deliver the gas to City and that such gas is free from adverse claims of every kind.

10.2 Company shall indemnify and hold City harmless from and against any and all adverse claims, suits or encumbrances relating to the quality of gas, title, and/or authority to deliver said gas.

10.3 During the term of this Agreement, City shall possess and control the Metering Station and all connecting lines, meters, regulators, odorizers and other facilities or equipment located downstream of the Delivery Point whether installed by City or Company. Company shall provide a suitable 110-volt power supply at the Metering Station for City's use in performing under this Agreement, and a telephone line for electronic data communication. Company shall be responsible for all costs associated with the electrical power supply, including monthly power consumption costs. City will be responsible for paying the monthly telephone costs. Except as stated, all costs of equipment and installation of the equipment shall be borne by Company, whether installed by Company or City at Company's request.

10.4 Upon termination of this Agreement, City shall disconnect the Company pipeline, cut and cap same at an appropriate location, and abandon it in place to sever same from City's distribution system. Thereafter, ownership, possession and control of the Metering Station and all connecting lines, meter, regulators, odorizers and other facilities or equipment located downstream of the Delivery Point that were purchased by Company (or cost reimbursed to City by Company pursuant to the provisions of Section 8.5 hereof) shall revert to Company in an "as is" condition. Company may remove such facilities and equipment at its cost, retain same in place, or make other mutually acceptable arrangements between the parties in writing.

10.5 Company shall provide a suitable connection point near the Metering Station and shall accept for disposal at that location any liquids which are removed from the gas by equipment installed at the Metering Station. Company shall accept full responsibility for disposing of such liquids in strict accordance with all current federal, state, and local rules and regulations pertaining to same.

SECTION 11. INGRESS AND EGRESS

11.1 Company shall provide City access to the Processing Facilities, pipelines and Metering Station at all times without prior notice. If requested by City, Company shall provide a security fence with a locked gate, erected at Company's expense, directly around the area containing the Metering Station. City shall provide Company with a key to the gate lock.

11.2 Company shall permit no structures (whether permanent or temporary), trees or other utility lines or pipes (including but not limited to electric, water, cable and telephone) within five (5) feet on either side of the ground below which the pipeline from the Metering Station to City's pipeline facilities is located, without City's written prior consent. During the term of this Agreement, should Company desire to move the location of the pipelines or Metering Station, it shall be relocated upon Company's land at Company's expense after mutual agreement of the parties to the changed location.

SECTION 12. SUCCESSION AND ASSIGNMENT

12.1 This Agreement shall inure to and be binding upon the successors and assigns of the parties hereto. Neither party may assign its rights nor delegate its obligations under this Agreement without prior written consent of the other party, which consent shall not be unreasonably withheld.

12.2 Company shall not deliver any gas to City for which City does not have a fully executed, written and current agreement permitting Company to deliver the gas to City.

SECTION 13. LIABILITY, INDEMNIFICATION AND INSURANCE

13.1 Company and City each assume full responsibility and liability for and shall indemnify and save harmless the other party from all liability including injury and death to persons, and expense on account of any and all damages, claims, actions, arbitration or settlement, arising out of or resulting from the acts of the party causing the damage; except that Company accepts full and sole responsibility for gas quality and the proper allocation of all gas volumes delivered by Company, and Company accepts full and sole responsibility for allocation, or misallocation, of ownership volumes and proper identification of the proper party for payment for any and all gas volumes delivered by Company to City.

13.2 No language in this Agreement shall create any duty or obligation on City or Company to investigate, inspect, insure compliance with rules and regulations, maintain

or repair the other party's pipelines, connections, meters or valves or any part thereof, or any condition, occurrence or create any right, duty or obligation to third parties, except as the parties performance is set forth herein.

13.3 As a condition precedent to the effectiveness of this Agreement, Company shall procure and maintain at Company's expense for the duration of this Agreement and any extensions, renewals or holding over hereof, from an insurance Company(ies) that is admitted to write insurance in the State of California or that has a rating of or equivalent to an A:VIII by A.M. Best Company the following insurance:

(a) Commercial general liability insurance (equivalent to CG 00 01 11 85 or 88) in an amount not less than Five Million Dollars (\$5,000,000) per occurrence. Such insurance shall not exclude or limit coverage for broad form contractual liability, cross liability protection, independent contractors liability, pollution liability, or products and completed operations liability. The City of Long Beach, its officials, employees, and agents shall be added as additional insureds using ISO form CG 20 10 11 85.

(b) If automobiles may be used in the delivery of the product, automobile liability insurance (equivalent to CA 00 01 06 92) including Symbol 1 (Any Auto) in an amount not less than Two Million Dollars (\$2,000,000) per accident.

Insurance required herein shall be primary and non-contributing as respects any insurance or self-insurance, primary or excess, available to City or to any official, employee or agent of City. Coverage shall state that the insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability, and all policies shall be endorsed to provide that coverage shall not be suspended, voided, changed, or terminated except after thirty (30) days prior written notice to City.

Prior to the commencement of this Agreement, Company shall deliver to City certificates of insurance with original endorsements evidencing the insurance coverage required by this Agreement for approval as to sufficiency and form. The certificates and endorsements for each insurance policy shall contain the signature of a person authorized by that insurer to bind coverage on its behalf. City reserves the right to require complete certified copies of all policies of the Company at any time, and Company agrees to provide such certified copies to City within ten business (10) days of City's request for said copies. Any actual or alleged failure of City to obtain proof of insurance required under this Agreement in no way waives any right or remedy of City under this Agreement.

Any self-insurance program, self-insured retention or deductibles must be approved separately in writing by City's Risk Manager or designee and shall protect City, and its officials, employees, and agents in the same manner and to the same extent as they would have been protected had the policy or policies not contained retention provisions

The insurance required herein shall not be deemed to limit Company's liability relating to performance under this Agreement. The procuring of insurance shall not be

construed as a limitation on liability or as full performance of the indemnification and hold harmless provisions of this Agreement.

Any modification or waiver of the insurance requirements herein shall be made only with the written approval of the City's Risk Manager or designee.

SECTION 14. FORCE MAJEURE

14.1 Except for City's obligations to make payment for gas delivered hereunder, neither party hereto shall be liable for any failure to perform the terms of this Agreement when such failure is due to "force majeure". The term "force majeure" as employed in this Agreement shall include acts of God, strikes, lockouts, or industrial disputes or disturbances, civil disturbance, arrests and restraints from rulers of people, interruptions by government or court orders, present and future valid orders of any regulatory body having proper jurisdiction, acts of the public enemy, wars, riots, blockades, insurrection, inability to secure or delay in securing labor or materials, including delay in securing or inability to secure materials by reason of allocations promulgated by authorized governmental agencies, epidemics, landslides, lightning, earthquakes, fire, storm, floods, washouts, explosions, breakage or freezing of pipelines, inability to obtain easements or rights-of-way or use of existing transportation, the making of repairs, maintenance or alterations to pipelines, meters, regulators, odorizer equipment or plants, partial or total failure of gas supply, or any other cause, whether of the kind herein enumerated or otherwise, not reasonably within the control of the party claiming "force majeure" and which prevents that party's performance hereunder.

14.2 The "force majeure" shall, so far as possible, be remedied with all reasonable dispatch. The settlement of strikes or lockouts or industrial disputes or disturbances shall be entirely within the discretion of the party having the difficulty and the above requirement that any "force majeure" shall be remedied with all reasonable dispatch shall not require the settlement of strikes, lockouts or industrial disputes or disturbances by acceding to the demands of any opposing party therein when such course is inadvisable in the discretion of the party having the difficulty.

SECTION 15. GOVERNMENT REGULATION

15.1 This Agreement shall be subject to all present and future applicable and valid laws, orders, rules and regulation of any regulatory body or agency having jurisdiction over the parties, their facilities or gas supply, or any provisions of this Agreement. The parties specifically acknowledge that certain information may need to be provided or certain documents or reports may need to be filed with certain city, county, state or federal regulatory agencies to implement or continue the transaction contemplated herein. Accordingly, upon the request of one party, the other party shall use its best efforts to cooperate in providing information or making or requesting certain filings to allow the intent of this Agreement to be fulfilled.

15.2 If any regulatory body having jurisdiction shall, after the date of execution of this Agreement, impose by rule or order any terms or conditions for such regulatory

approval which is not satisfactory to the party burdened thereby, then such party may terminate this Agreement upon thirty (30) days prior written notice to the other party.

SECTION 16. NONDISCRIMINATION

16.1 In connection with the performance of this Agreement and subject to applicable rules and regulations, Company shall not discriminate against any person or employee, or fail to provide any service on the basis of race, religion, national origin, color, age, gender, sexual orientation, AIDS, AIDS related condition, handicap, disability or Vietnam Era veteran status. Company shall ensure that applicants are employed, and that employees are treated during their employment, without regard to these bases. Such actions shall 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.

16.2 In connection with the performance of this Agreement, Company shall be in compliance with all applicable provisions of the Americans with Disabilities Act ("ADA"). City has no duty under this Agreement to insure Company's compliance with applicable ADA legislation.

SECTION 17. NOTICES AND STATEMENTS

17.1 Any notice, request or demand provided for in this Agreement, or any notice which a party may desire to give to the other, shall be in writing and shall be considered as duly delivered when personally served, or when received if sent by telecopier, telex or next day delivery service, or if deposited in the U.S. Postal Service, first class, postage prepaid, as of the third business day after the postmark date at the following addresses:

a) To Company:

PH: _____
FAX: _____

b) To CITY:

Long Beach Energy
2400 East Spring Street
Long Beach, CA 90806-2285
Attention: Manager of Energy Services

PH: (562) 570-2060
FAX: (562) 570-2008

Any facsimile notice shall be followed with a mailed confirmation copy to insure the facsimile was properly received.

17.2 Any statement or invoice provided for in this Agreement, except as otherwise provided and until changed by written notice shall be sent to the parties hereto at the following addresses:

a) To Company:

b) To CITY:

Long Beach Energy
2400 East Spring Street
Long Beach, CA 90806-2285
Attn: Accounting

17.3 No waiver by either City or Company of any default of the other hereunder shall operate as a waiver of any future default, whether of like or different character or nature.

17.4 This Agreement shall be construed consistently with all laws and public policies of the federal, state and local governments having proper jurisdiction over this Agreement and the parties hereto.

SECTION 18. MISCELLANEOUS

18.1 This Agreement sets forth all understandings between the parties respecting the terms and conditions of this transaction. All prior agreements, understandings and representations, whether consistent or inconsistent, oral or written, concerning this transaction are merged into and superseded by this written Agreement. No modification or amendment of this Agreement shall be binding on either party unless amended by an instrument in writing executed with all the formalities and by the proper parties in the same manner as this Agreement.

18.2 The headings throughout this Agreement are inserted for reference purposes only, and are not to be construed or taken into account in interpreting the terms and provisions of any section, nor to be deemed in any way to qualify, modify or explain the effects of any such term or provision.

18.3 In the event that any provision of this Agreement is held by a court of competent jurisdiction or other regulatory body having jurisdiction herein, to be unenforceable or invalid, such holding shall not render unenforceable any other provision of this Agreement, each provision being expressly severable and independently enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed by its duly authorized officer as of the date first written above.

"COMPANY"
[COMPANY]

BY _____
NAME _____
TITLE _____

BY _____
NAME _____
TITLE _____

[Attach Notary Acknowledgment]

"CITY"
CITY OF LONG BEACH

BY _____
City Manager

The foregoing document is approved as to form.
ROBERT E. SHANNON, City Attorney

Dated: _____, 20__ By: _____
Deputy

EXHIBIT A to
EXHIBIT C

[APPLICABLE POINT OF CONNECTION DIAGRAM TO BE INSERTED UPON
EXECUTION OF AGREEMENT]

CITY OF LONG BEACH ENERGY DEPARTMENT

NATURAL GAS QUALITY SPECIFICATIONS

- Heating Value: The minimum heating value is nine hundred and seventy (970) Btu (gross) per standard cubic foot on a dry basis. The maximum heating value is one thousand one hundred fifty (1150) Btu (gross) per standard cubic foot on a dry basis.
- Moisture Content or Water Content: Gas delivered shall have a water content not in excess of seven (7) pounds per million standard cubic feet.
- Hydrogen Sulfide: The gas shall not contain more than twenty-five hundredths (0.25) of one (1) grain of hydrogen sulfide per one hundred (100) standard cubic feet. The gas shall not contain any entrained hydrogen sulfide treatment chemical (solvent) or its by-product in the gas stream.
- Mercaptan Sulfur: The mercaptan sulfur is not to exceed three tenths (0.3) grains per hundred standard cubic feet.
- Total Sulfur: The gas shall not contain more than seventy-five hundredths (0.75) of a grain of total sulfur compounds per one hundred (100) standard cubic feet. This includes COS and CS₂, hydrogen sulfide, mercaptans and mono, di and poly sulfides.
- Carbon Dioxide: The gas shall not have a total carbon dioxide content in excess of three percent (3%) by volume.
- Oxygen: The gas shall not at any time have an oxygen content in excess of two-tenths of one percent (0.2%) by volume, and customer will make every reasonable effort to keep the gas free of oxygen.
- Inerts: The gas shall not at any time contain in excess of four percent (4%) total inerts (the total combined carbon dioxide, nitrogen, oxygen and other inert compound by volume).
- Dust, Gums, and Other Objectionable Matter: The gas shall be commercially free from dust, gums, and other foreign substances.
- Hazardous Substances: The gas must not contain hazardous substances (including but not limited to toxic and/or carcinogenic substances and/or reproductive toxins) concentrations which would prevent or restrict the normal marketing of gas, be injurious to pipeline facilities, or which would present a health and/or safety hazard to Utility employees and/or the general public.
- Delivery Temperature: The gas delivery temperature is not to be below 50F or above 105F.
- Interchangeability: The gas shall meet American Gas Association's Wobbe Number, Lifting Index, Flashback Index and Yellow Tip Index interchangeability indices for high methane gas relative to a typical composition of gas in the Utility system near the points of receipt. Acceptable specification ranges are:
- Wobbe Number (W for receiving facility)
(WP for producer)
0.9 W <= WP <= 1.1 W

- Lifting Index (IL)
IL \leq 1.06
- Flashback Index (IF)
IF \leq 1.2
- Yellow Tip Index (IY)
IY \geq 0.8

EXHIBIT D

**ASSIGNMENT CONSENT AGREEMENT OF NATURAL GAS SALES AND
PURCHASE AGREEMENT FOR LOCALLY PRODUCED GAS**

This Assignment Consent Agreement (this "Assignment") is entered into this _____ day of _____, 20____, by and between _____ ("Assignor"), _____ ("Assignee"), and the CITY OF LONG BEACH, a municipal corporation ("City").

This Assignment is made with reference to the following facts and objectives:

A. City and Assignor have entered into a Natural Gas Sales and Purchase Agreement for Locally Produced Gas for the purchase of natural gas by City from Assignor, effective _____, which agreement is attached as Exhibit "A" and incorporated herein by reference (the "Agreement"), pursuant to a minute order of the City Council dated _____.

B. Effective _____, Assignor assigned all of its rights, title, interest and obligations in the Agreement identified herein as Exhibit "A" to Assignee.

C. City is willing to consent to the assignment on the following terms and conditions to which Assignor, Assignee, and City agree:

1. Neither this Assignment nor City's consent thereto shall relieve Assignor from any liabilities arising from or attributable to the activities by Assignor, its predecessors, affiliates, wholly or partially owned entities, parents and assigns prior to the effective date of this Assignment, notwithstanding anything to the contrary in any agreements between Assignor and Assignee.

2. Assignee accepts all of the rights, title, interest and obligations in and to the Agreement and agrees and covenants to incur and be responsible for all of the duties and obligations of Assignor thereunder, notwithstanding anything to the contrary in any other agreements between Assignor and Assignee.

3. Assignor has unconditionally assigned to Assignee all of its rights and obligations under all applicable oil and gas leases, rights of way, franchises and operating agreements with respect to the natural gas purchased by City under the Agreement.

4. This Assignment shall be binding upon and shall inure to the benefit of the parties and their successors and assigns; however, nothing in this consent shall be interpreted to waive City's right to object to any future transfer or sale of any rights or obligations in the Agreement.

5. This Assignment shall be governed by the laws of the State of California.

6. This Assignment shall be effective upon execution by City.

7. This Assignment may be executed in any number of counterparts, and each executed counterpart shall have the same force and effect as an original instrument and shall be construed as if all the parties to the aggregate counterparts had signed the same instrument.

"ASSIGNOR"

_____, 20__

By _____
Title _____

_____, 20__

By _____
Title _____

"ASSIGNEE"

_____, 20__

By _____
Title _____

_____, 20__

By _____
Title _____

CONSENT TO ASSIGNMENT

City consents to the Assignment of interests of Assignor to Assignee, subject to the foregoing terms and conditions.

CITY OF LONG BEACH, a municipal corporation

_____, 20__

By _____
City Manager

The foregoing is hereby approved as to form this __ day of _____,
20__.

ROBERT E. SHANNON, City Attorney

By _____
Deputy

RFA
1/6/05
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