

Base Contract for Sale and Purchase of Natural Gas

This Base Contract is entered into as of the following date: December 15, 2016

34477

The parties to this Base Contract are the following:

PARTY A Energy America, LLC	PARTY NAME	PARTY B City of Long Beach
12 Greenway Plaza, Suite 250 Houston, TX 77046	ADDRESS	Gas and Oil Department 2400 E. Spring St. Long Beach, CA 90806
www.directenergy.com	BUSINESS WEBSITE	www.longbeach.gov
	CONTRACT NUMBER	
85-844-3377	D-U-N-S® NUMBER	075295832
<input checked="" type="checkbox"/> US FEDERAL: <input type="checkbox"/> OTHER:	TAX ID NUMBERS	<input checked="" type="checkbox"/> US FEDERAL: <input type="checkbox"/> OTHER:
Delaware	JURISDICTION OF ORGANIZATION	California
<input type="checkbox"/> Corporation <input checked="" type="checkbox"/> LLC <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> LLP <input type="checkbox"/> Other:	COMPANY TYPE	<input type="checkbox"/> Corporation <input type="checkbox"/> LLC <input type="checkbox"/> Limited Partnership <input type="checkbox"/> Partnership <input type="checkbox"/> LLP <input checked="" type="checkbox"/> Other: <u>City of Long Beach, A Chartered City and Municipal Corp. of the State of CA</u>
	GUARANTOR (IF APPLICABLE)	
CONTACT INFORMATION		
1200, 525 – 8 th Ave SW, Calgary AB T2P 1G1 ATTN: <u>Jamie Varghese</u> TEL#: <u>403-776-2460</u> FAX#: _____ EMAIL: <u>jamie.varghese@directenergy.com</u>	<input checked="" type="checkbox"/> COMMERCIAL	ATTN: <u>Dennis Burke</u> TEL#: <u>(562) 570-2066</u> FAX#: <u>(562) 499-1087</u> EMAIL: <u>dennis.burke@longbeach.gov</u>
1200, 525 – 8 th Ave SW, Calgary AB T2P 1G1 ATTN: <u>Jamie Varghese</u> TEL#: <u>403-776-2460</u> FAX#: _____ EMAIL: <u>jamie.varghese@directenergy.com</u>	<input checked="" type="checkbox"/> SCHEDULING	ATTN: <u>Chad Medina (Shell Energy North America)</u> TEL#: <u>(858) 526-2164</u> FAX#: <u>(858) 320-2656</u> EMAIL: <u>chad.medina@shell.com</u>
12 Greenway Plaza, Suite 250, Houston, TX 77046 ATTN: <u>V.P., Head of Commercial Legal</u> TEL#: <u>713-877-3851</u> FAX#: <u>713-621-5648</u> EMAIL: _____	<input checked="" type="checkbox"/> CONTRACT AND LEGAL NOTICES	ATTN: <u>Richard Anthony</u> TEL#: <u>(562) 570-2211</u> FAX#: <u>(562) 436-1579</u> EMAIL: <u>Richard.Anthony@longbeach.gov</u>
12 Greenway Plaza, Suite 250, Houston, TX 77046 ATTN: <u>Head of Credit</u> TEL#: <u>713-904-7004</u> FAX#: _____ EMAIL: <u>creditnotices@directenergy.com</u>	<input checked="" type="checkbox"/> CREDIT	ATTN: <u>H. Cameron Smith</u> TEL#: <u>(562) 570-2007</u> FAX#: <u>(562) 570-2155</u> EMAIL: <u>Cameron.smith@longbeach.gov</u>
12 Greenway Plaza, Suite 250, Houston TX 77046 ATTN: <u>Confirmations</u> TEL#: <u>713.877.3728</u> FAX#: <u>713.877.3729</u> EMAIL: _____	<input checked="" type="checkbox"/> TRANSACTION CONFIRMATIONS	ATTN: <u>Dennis Burke</u> TEL#: <u>562-570-2066</u> FAX#: <u>562-499-1087</u> EMAIL: <u>dennis.burke@longbeach.gov</u>
ACCOUNTING INFORMATION		
12 Greenway Plaza, Suite 250, Houston TX 77046 ATTN: <u>Kimberly O'Sullivan</u> TEL#: <u>713-877-3658</u> FAX#: <u>713-904-7197</u> EMAIL: <u>gassettlements@directenergy.com</u>	<input checked="" type="checkbox"/> INVOICES <input checked="" type="checkbox"/> PAYMENTS <input checked="" type="checkbox"/> SETTLEMENTS	ATTN: <u>Long Beach Gas and Oil Department</u> TEL#: <u>(562) 570-2016</u> FAX#: <u>(562) 570-2155</u> EMAIL: <u>GO-ACCTSPAY@LONGBEACH.GOV</u>
BANK: <u>Citibank, N.A.</u> ABA: <u>031100209</u> ACCT: <u>38826211</u> OTHER DETAILS: <u>S.W.I.F.T. BIC CODE: CITIUS33</u>	WIRE TRANSFER NUMBERS (IF APPLICABLE)	BANK: <u>Union Bank of California</u> ABA: <u>122-000-496</u> ACCT: <u>2740016582</u> OTHER DETAILS: <u>City of Long Beach Cash Concentration Acct.</u>
BANK: _____ ABA: _____ ACCT: _____ OTHER DETAILS: _____	ACH NUMBERS (IF APPLICABLE)	BANK: <u>Union Bank of California</u> ABA: <u>122-000-496</u> ACCT: <u>2740016582</u> OTHER DETAILS: <u>City of Long Beach Cash Concentration Acct.</u>
ATTN: _____ ADDRESS: _____	CHECKS (IF APPLICABLE)	ATTN: _____ ADDRESS: _____

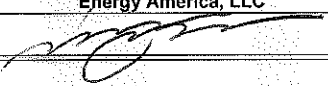
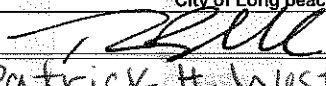
Base Contract for Sale and Purchase of Natural Gas

(Continued)

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 the appropriate box(es) from each section:

Section 1.2 Transaction Procedure <input checked="" type="checkbox"/> Oral (default) OR <input type="checkbox"/> Written	Section 10.2 Additional Events of Default <input type="checkbox"/> No Additional Events of Default (default) <input checked="" type="checkbox"/> Indebtedness Cross Default <input checked="" type="checkbox"/> Party A: <u>An amount equal to 3% of Party A's guarantor shareholders' equity (howsoever described) as shown on the most recent annual audited financial statements</u> <input checked="" type="checkbox"/> Party B: <u>An amount equal to 3% of shareholders' equity (howsoever described) as shown on the most recent annual audited financial statements</u> <input checked="" type="checkbox"/> Transactional Cross Default <u>Specified Transactions: as defined in the Special Provisions</u>
Section 2.7 Confirm Deadline <input checked="" type="checkbox"/> 2 Business Days after receipt (default) OR <input type="checkbox"/> _____ Business Days after receipt	
Section 2.8 Confirming Party <input checked="" type="checkbox"/> Seller (default) OR <input type="checkbox"/> Buyer <input type="checkbox"/> Energy America, LLC	
Section 3.2 Performance Obligation <input checked="" type="checkbox"/> Cover Standard (default) OR <input type="checkbox"/> Spot Price Standard	Section 10.3.1 Early Termination Damages <input checked="" type="checkbox"/> Early Termination Damages Apply (default) OR <input type="checkbox"/> Early Termination Damages Do Not Apply
Note: The following Spot Price Publication applies to both of the immediately preceding.	
Section 2.31 Spot Price Publication <input checked="" type="checkbox"/> Gas Daily Midpoint (default) OR <input type="checkbox"/> _____	Section 10.3.2 Other Agreement Setoffs <input checked="" type="checkbox"/> Other Agreement Setoffs Apply (default) <input type="checkbox"/> Bilateral (default) <input checked="" type="checkbox"/> Triangular OR <input type="checkbox"/> Other Agreement Setoffs Do Not Apply
Section 6 Taxes <input checked="" type="checkbox"/> Buyer Pays At and After Delivery Point (default) OR <input type="checkbox"/> Seller Pays Before and At Delivery Point	
Section 7.2 Payment Date <input checked="" type="checkbox"/> 25 th Day of Month following Month of delivery (default) OR <input type="checkbox"/> Day of Month following Month of delivery	Section 15.5 Choice Of Law <u>State of New York</u>
Section 7.2 Method of Payment <input checked="" type="checkbox"/> Wire transfer (default) <input type="checkbox"/> Automated Clearinghouse Credit (ACH) <input type="checkbox"/> Check	Section 15.10 Confidentiality <input checked="" type="checkbox"/> Confidentiality applies (default) OR <input type="checkbox"/> Confidentiality does not apply
Section 7.7 Netting <input checked="" type="checkbox"/> Netting applies (default) OR <input type="checkbox"/> Netting does not apply	
<input checked="" type="checkbox"/> Special Provisions Number of sheets attached: <input checked="" type="checkbox"/> Addendum(s): <u>Municipal Rider</u>	

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

Energy America, LLC By:  Son Tran Director & Sr. Counsel	PARTY NAME SIGNATURE PRINTED NAME TITLE	City of Long beach By:  Patrick H. West city manager Assistant City Manager
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EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

**Special Provisions To Base Contract for Sale and Purchase of Natural Gas
Dated December 15, 2016 by and between
Energy America, LLC ("Party A") and City of Long Beach ("Party B")**

These Special Provisions are part of and supplement or revise the Base Contract for Sale and Purchase of Natural Gas to which they are attached. If any of these Special Provisions conflict with the General Terms and Conditions for Sale and Purchase of Natural Gas published by the North American Energy Standards Board ("NAESB") as NAESB Standard 6.3.1 September 5, 2006 and which are incorporated by reference into the Base Contract (the "Base Contract"), these Special Provisions shall govern. Any definition used in the Base Contract shall have the same meaning in these Special Provisions unless otherwise defined or the context clearly requires otherwise. Any reference to a Section in these Special Provisions refers to a Section of the Base Contract amended as applicable by these Special Provisions. The headings and subheadings in these Special Provisions are used solely for convenience of reference and shall not be used to construe or interpret these Special Provisions.

1. SECTION 2. DEFINITIONS

- (a) Affiliate – Section 2.2 is amended by adding the following after the last sentence in the third (3rd) line: "Notwithstanding the foregoing, in the case of Party A, Affiliate shall be deemed not to include any person or entity that is not organized or incorporated under the laws of a jurisdiction within Canada or the United States."
- (b) Cover Standard – Section 2.12 is amended by deleting: "(or an alternate fuel if elected by Buyer and replacement gas is not available)".
- (c) Credit Support Obligation(s) – Section 2.13 is amended by adding the following after the word "nature": ",all of which obligations and security shall be provided at the sole expense of the party whose credit is being supported."
- (d) Indebtedness Cross Default – Section 2.23 is amended by adding the following after the word "money" in the fifth (5th) line:
", excluding in each case any such indebtedness (a) arising for or in respect of an obligation for borrowed money where the creditors' recourse on the obligation is limited solely to assets for which money was borrowed, or (b) owing by one Affiliate of a party to another Affiliate of such party (but including, Centrica plc with respect to Party A for the purpose of this definition's reference to Affiliate),"
- (e) Section 2.23 is further amended by deleting the phrase "immediately due and payable" at the end of such Section and adding in its place: ", or becoming capable at such time of being declared, due and payable under such agreement or instrument".
- (f) Specified Transaction –Section 2.30 is deleted its entirety and replaced with the following new section 2.30:
"2.30. 'Specified Transaction(s)' shall mean any other transaction or agreement now existing or hereafter entered into between a party or one of its Affiliates and the other party or one of its Affiliates, which is not a transaction under this Contract, for the purchase, sale or exchange of a commodity or financial derivative, and any other forward contract, swap agreement, or commodities contract, in each case as defined in the United States Bankruptcy Code, as amended from time to time."
- (g) Add the following new definitions to the end of section 2
- (i) "2.36. 'Loss' means with respect to any Terminated Transaction, and a party, the U.S. dollar amount that party reasonably determines in good faith to be its total losses and costs (or gain) in connection with the termination of such Terminated Transaction, including, without limitation, any loss of bargain, cost of funding or, at the election of such party but without duplication, loss or cost incurred as a result of its terminating, liquidating, obtaining or reestablishing any hedge or related trading position (or any gain resulting from any of them). Loss includes losses and costs (or gains) in respect of any payment required to have been made (assuming satisfaction of each applicable condition precedent) on or before the relevant Early Termination Date and not made. A party will determine its Loss as of the date specified in Section 10.3.1 or, if that is not reasonably practicable, as of the earliest date thereafter as is reasonably practicable. A party may (but need not) determine its Loss by reference to Relevant Data."
- (ii) "2.37. 'Relevant Data' means (i) relevant rates (including, without limitation, bid side and offer side rates), prices (including, without limitation, bid side and offer side prices), forward curves, yields, yield curves, volatilities, spreads, correlations and relevant market data provided by one or more third parties, and/or other commercially reasonable sources, (ii) quotations (either firm or indicative) for replacement transactions provided by one or more third parties and/or other commercially reasonable sources, (iii) estimates of Gas usage and transportation availability, including, without limitation, any usage plans, reports or projections prepared with respect to any Terminated Transaction, (iv)

industry publications, and (v) historical data relating to a party's Gas usage, including, without limitation, such parties performance and Gas usage under any Terminated Transaction." Credit comment – does not apply

2. SECTION 10. FINANCIAL RESPONSIBILITY

- (a) The word "or" immediately prior to clause (ix) in section 10.2 is deleted and the following new clause (x) is inserted immediately after clause (ix):

"(x) fail to perform any other material covenant or obligation set forth in this Contract and not expressly covered by this Section 10.2 (excluding a breach of a Firm obligation to deliver or receive Gas for which a remedy is provided under Section 3.2), if such failure is not remedied within three (3) Business Days after written Notice of such failure;"

- (b) The following shall be added to the end of Section 10.2:

"Provided, however, that the Non-Defaulting Party's right to withhold and/or suspend deliveries or payments on account of the occurrence of a particular Event of Default shall cease with respect to such Event of Default after 30 Days from (and including) the first date of any such withholding and/or suspension by the Non-Defaulting Party, unless within that period the Non-Defaulting Party designates an Early Termination Date in the manner provided in Section 10.3. For each Day that deliveries or receipts of Gas are suspended (up to the maximum of 30 Days unless an Early Termination Date is designated), in addition to any other payments to which it may be entitled, the Non-Defaulting Party shall be entitled to payments calculated in accordance with Section 3.2 as if the Defaulting Party had breached its Firm obligation to deliver or receive Gas, as applicable. Unless an Early Termination Date is designated, deliveries and receipts of Gas shall recommence upon the expiration of such 30 Day period (unless an Early Termination Date is designated)."

- (c) Early Termination Damages Apply – Section 10.3.1 (Early Termination Damages Apply) is deleted in its entirety and replaced with the following:

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 Non-Defaulting Party's Loss with respect to each Terminated Transaction, which Loss is due to the Non-Defaulting Party (except that if a gain, then such amount is due to the Defaulting Party).

A party shall not be required to enter into a replacement transaction(s), or to terminate, liquidate, obtain or reestablish any hedge or related trading position, in order to determine Loss. 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 Loss. 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 Loss. The rate of interest used in calculating net present value shall be determined by the Non-Defaulting Party in a commercially reasonable manner.

The parties agree that the use of Relevant Data hereunder may be necessary because of the difficulty of fixing and ascertaining the exact amount of certain damages which the Non-Defaulting Party will sustain as a result of the occurrence of an Event of Default with respect to the Defaulting Party. The parties agree that the use of Relevant Data, as provided for herein, if any, is not intended to be a penalty, but rather an attempt by the parties, in advance, to provide a mechanism to aid in the determination of certain damages that the Non-Defaulting Party would suffer as a result of the occurrence of an Event of Default with respect to the Defaulting Party. The parties further agree that the use of Relevant Data is reasonable for purposes of determining the Non-Defaulting Party's Loss.

Notwithstanding the foregoing, if a transaction is an Excluded Transaction, such transaction shall be liquidated and terminated as of the actual date of liquidation and termination of such Excluded Transaction."

- (d) Early Termination Damages Apply – Add the following to the end of Section 10.3.1:

"In addition, the Non-Defaulting Party shall be entitled to collect from the Defaulting Party, all reasonable costs, fees and expenses, including, without limitation, attorneys' fees and disbursements, incurred by the Non-Defaulting Party (i) to collect amounts owed under this Contract, including, without limitation, enforcement of any security taken to secure the payment or performance of obligations under a transaction or collection of amounts from a guarantor or issuer of a letter of credit; (ii) to replace a terminated Transaction; or (iii) in connection with or related to termination and/or liquidation of a Transaction pursuant to Section 10 or an Event of Default (including, but not limited to, reasonable broker and hedge related costs)."

- (e) Set-off – Add the following to the end of Section 10.3.2

“Notwithstanding the above, if the Parties have chosen Triangular Setoff and it is determined by a court of competent jurisdiction that Triangular Setoff is unenforceable then Bilateral Setoff shall apply.”

3. SECTION 12.TERM

Continuation of Confidentiality Obligation - Add “Section 15.10” to the enumerated sections in the second line.

4. SECTION 15. MISCELLANEOUS

- (a) Conflict of Laws and Waiver of Jury trial - Add the following to the end of Section 15.5:

“The parties agree to submit to the exclusive jurisdiction of the state courts and United States District Court of such indicated jurisdiction, including all appellate courts therein and therefrom, to determine such matters, but nothing in the foregoing shall prohibit a party from seeking enforcement of any judgment in any other jurisdiction. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS CONTRACT.”

- (b) Rates and Terms- Add the following as Section 15.13:

“15.13. The rates, terms, and/or conditions of service specified in this Base Contract or any transaction entered into hereunder shall remain in effect for the entire term of the Base Contract, and shall not be subject to either prospective or retroactive revision through application or complaint to FERC pursuant to sections 4 and 5 of the Natural Gas Act, absent the prior written agreement of the parties hereto.”

- (c) UCC – Add the following as Section 15.14:

“15.14. Each party agrees that notwithstanding any provisions of law relating to adequate assurance of future performance, the parties shall only be entitled to request adequate assurance as specifically provided in this Contract, including the Credit Support Annex, if any.”

- (d) Counterparts – Add the following as Section 15.15:

“15.15. This Contract may be executed in counterparts, each of which will be considered an original, but all of which together will constitute the same instrument. Without limiting the foregoing, a facsimile copy of this Contract or copy of this Contract sent via electronic mail in a portable document format (“PDF”) will be considered an original. The Parties may execute this Contract in any number of duplicate originals, including via facsimile signature page or signature on a PDF page sent via electronic mail, and in multiple counterparts, each of which constitutes an original, and all of which, collectively, constitute only one agreement. The signatures of all of the parties need not appear on the same counterpart, and delivery of an executed counterpart signature page by facsimile or by electronic mail of a signature page in PDF is as effective as executing and delivering this Contract in the presence of the other party.”

- (e) Bankruptcy Code/Independent Decision – Add the following as Section 15.16:

“15.16. The parties agree that (i) this Contract is a “Master Netting Agreement” as defined in the United States Bankruptcy Code, as amended (the “Bankruptcy Code”), (ii) Party A is not a “utility” as such term is used in the Bankruptcy Code, (iii) all setoffs, netting and liquidations contemplated hereunder constitute “settlement payments” as set forth in Sections 101 and 741 of the Bankruptcy Code and each payment or transfer of Adequate Assurance of Performance or Credit Support Obligation(s) under this Contract is a “margin payment”, “settlement payment” or “transfer” within the meaning of Section 101 of the Bankruptcy Code for the purposes of and as used therein, and (iv) each party is acting for its own account, has made its own independent decision to enter into this Contract and each transaction and as to whether this Contract and any transaction is appropriate or proper for it based upon its own judgment, is not relying upon the advice or recommendations of the other party hereto in so doing, and is capable of assessing the merits of and understanding, and understands and accepts, the terms, conditions and risks of this Contract and each transaction.”

- (f) Prior Transactions – Add the following as Section 15.17

"15.17. On and after the effective date of this Base Contract, (i) any and all Gas purchases and/or sales transactions entered into by and between the parties prior to such effective date and which have not been fully performed prior to such effective date (each, an "Existing Transaction"), shall become subject to, and form part of, this Contract, (ii) each such Existing Transaction shall be a transaction for any and all purposes (including with respect to any performance thereunder) under this Contract, and (iii) this Contract shall supersede and replace with respect to such Existing Transactions any other general terms and conditions and/or master agreement, howsoever characterized, that applied or may have applied to an Existing Transaction prior to such effective date."

5. Dodd-Frank-- Add the following as Section 16

16.1. The terms set forth below shall have the meanings ascribed to them below:

"CFTC" means the U.S. Commodity Futures Trading Commission.

"CFTC Regulations" means the rules, regulations, orders, supplementary information, guidance, questions and answers, staff letters and interpretations published or issued by the CFTC, in each applicable case as amended, and when used herein may also include specific citations to Titles, Parts or Sections of Title 17 of the Code of Federal Regulations without otherwise limiting the applicability of other rules, regulations, orders, supplementary information, guidance, questions and answers, staff letters and interpretations.

"Commodity Exchange Act" means the U.S. Commodity Exchange Act, as amended, 7 USC Section 1, et seq.

"Commodity Option" means a "commodity option" within the meaning of CFTC Regulations.

"Trade Option" means a Commodity Option between the Parties under the Base Contract that meets the conditions contained in CFTC Regulation 32.3(a).

16.2. The Parties shall seek to agree at the time a transaction is executed whether the transaction is a Trade Option or otherwise exempt from reporting. If the transaction is a Trade Option, each Party shall, if required, in accordance with CFTC Regulations, (a) report the transaction in accordance with CFTC Regulations; or (b) if the Parties cannot agree as to whether a transaction is a Trade Option or otherwise exempt from reporting, then each Party shall make its own determination. .

Notwithstanding anything to the contrary in the Base Contract or in any non-disclosure, confidentiality or similar agreement to the contrary, each Party consents to the disclosure of information only to the extent required by CFTC Regulations and only to the persons or entities contemplated by those CFTC Regulations.

16.3. Each Party warrants and represents as of the Effective Date and on each date that it enters into a transaction subject to this Base Contract, that:

(i) It regularly makes or takes delivery of the commodity that is the subject of the transactions that are entered into subject to this Base Contract in the ordinary course of its business and any transaction it enters into subject to this Base Contract is entered into in connection with such business;

(ii) To the extent any transaction entered into subject to this Base Contract contains an embedded option or is a Commodity Option, then *either* the factors determining the exercise of such option are beyond the control of the exercising Party, *or* if it is the offeree, *i.e.*, buyer, of such option, it is a producer, processor, commercial user of, or a merchant handling the commodity, or the products or byproducts thereof, that is/are the subject of the transaction (a "Commercial Party") and it is entering into the transaction solely for purposes related to its business as such, and if it is the offeror, *i.e.*, seller, of such option, it is either a Commercial Party and it is entering into the transaction solely for purposes related to its business as such or it is an "eligible contract participant" as defined in Section 1a(18) of the Commodity Exchange Act; and

(iii) It intends to make or take physical delivery for immediate or deferred shipment or delivery, of the commodity that is the subject of any transaction it enters into

subject to this Base Contract in accordance with the terms and provisions of the applicable Transaction Confirmation and this Base Contract.

IN WITNESS WHEREOF, the parties have caused these Special Provisions to be duly executed as of the date first above written.

ENERGY AMERICA, LLC

CITY OF LONG BEACH

By: [Signature]
Name:

By: [Signature]
Name: Patrick H. West

Title: Son Tran
Director & Sr. Counsel

Title: City Manager

Date: 12/15/16

Date: 12/27/16

Assistant City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.

RFA
APPROVED AS TO FORM
12-27 2016 RFA
CHARLES PARKIN, City Attorney
By [Signature]
RICHARD ANTHONY
DEPUTY CITY ATTORNEY

MUNICIPAL RIDER
to the NAESB Base Contract for Sale and Purchase of Natural Gas ("Base Contract")
entered into by and between
Energy America, LLC and City of Long Beach

and dated as of December 15, 2016

1. The following definitions shall apply to this Municipal Rider:

"Covered Indenture" means any written agreement under which bonds, debentures or any other form of indebtedness are issued by the Government Entity.

"Government Entity" means City of Long Beach.

"Incipient Illegality" means (a) the enactment by any legislative body with competent jurisdiction over a Government Entity of legislation which, if adopted as law, would render unlawful (i) the performance by such Government Entity of any absolute or contingent obligation to make a payment or delivery or to receive a payment or delivery in respect of a transaction or the compliance by such Government Entity with any other material provision of the Contract relating to such transaction or (ii) the performance by a Government Entity of any contingent or other obligation which the Government Entity has under any Credit Support Obligation(s) relating to such transaction, (b) any assertion in any proceeding, forum or action by a Government Entity, in respect of such Government Entity or in respect of any entity location or organized under the laws of the state in which such Government Entity is located to the effect that performance under the Contract or similar agreements is unlawful or (c) the occurrence with respect to a Government Entity or any guarantor of such Government Entity of any event that constitutes an illegality.

"EA" means Energy America, LLC.

2. Section 3 is amended by inserting the following new section:

"3.5 Documents to be Delivered. Upon execution of this Contract, and thereafter upon reasonable demand, Government Entity shall provide to EA: (i) copies of its charter, enabling statute(s) or comparable legislation creating Government Entity; (ii) copies of documents evidencing its capacity and authority to execute this Contract and each Transaction Confirmation and to perform its obligations hereunder and thereunder; and (iii) if requested by EA, an opinion of counsel for the Government Entity, in form and substance reasonably satisfactory to EA, regarding the validity, binding effect and enforceability of the Contract against the Government Entity in respect of all relevant constitutional, organic or other governing documents and applicable law."

3. The following is added as a new Section 8.6:

"The Government Entity warrants and covenants that with respect to its contractual obligations hereunder and performance thereof, it shall not claim, and hereby waives any claim it may have to immunity on the grounds of sovereignty or similar grounds with respect to itself or its revenues or assets from: (a) suit, (b) jurisdiction of court (including a court located outside the jurisdiction

of its organization), (c) relief by way of injunction, order for specific performance or recovery of property, (d) attachment of assets, or (e) execution or enforcement of any judgment.”

4. In Section 10.2, the following are added as additional Events of Default, which shall apply to the Government Entity:

“(xiv) there shall be appointed or designated with respect to it, an entity such as an organization, board, commission, authority, agency or body to monitor, review, oversee, recommend or declare a financial emergency or similar state of financial distress with respect to it; or (xv) there shall be declared or introduced or proposed for consideration by it or by any legislative or regulatory body with competent jurisdiction over it, the existence of a state of financial emergency or similar state of financial distress in respect of it.”

5. The following sentence is added to the end of Section 11.3: “Force Majeure does not include any action taken by the Government Entity in its governmental capacity.”

6. The following sentence is added to the end of Section 15.8:

“The Government Entity represents and warrants (which representations and warranties will be deemed to be repeated by such party on each date on which a transaction is entered into) that: (a) it has taken all necessary action and made all necessary determinations and findings to authorize due execution, delivery and performance (including, but not limited to, competitive bidding, public notice, election, referendum, prior appropriation or other procedures that are required pursuant to the Government Entity’s ordinances, bylaws or other regulations); (b) it has obtained all governmental and other consents that are required to have been obtained by it with respect to this Contract, including without limitation, each transaction, and has complied with all conditions of any such consents; (c) the term of any transaction under this Contract shall not extend beyond any applicable limitation imposed by any enabling act or other relevant constitutional, organic or other governing documents and applicable law; (d) its ability to pay any and all amounts due and payable under this Contract and each transaction is not conditioned upon any governmental or administrative appropriation by any governmental or administrative authority, and further represents, warrants and covenants that (i) the members of the Government Entity have no legal right, absent the approval of the Government Entity, to take any funds of the Government Entity and (ii) it will neither transfer funds nor approve the transfer of funds to any of its members if such action will result, or is likely to result, in the Government Entity’s inability to perform under this Contract or any transaction, or to otherwise make payment to EA for amounts due and owing under this Contract and/or any transaction; and (e) its obligations to make payments under this Contract, including each transaction, are unsubordinated obligations and such payments are: (i) operating and maintenance costs (or similar designation) which enjoy first priority of payment at all times under any and all bond ordinances or indentures to which it is a party, any enabling act and all relevant constitutional, organic or other governing documents and applicable law; (ii) otherwise not subject to any prior claim under any and all bond ordinances or indentures to which it is a party, the enabling act and all other relevant constitutional, organic or other governing documents and applicable law and are available without limitation or deduction to satisfy all Government Entity obligations under this Contract, including each transaction; or (iii) are to be made solely from a fund or account of the Government Entity set aside and/or pledged to satisfy the Government Entity’s obligations under this Contract, including each transaction.”

7. The following are added as new Sections 15.15, and 15.16:

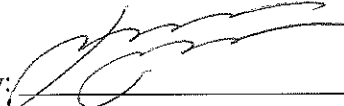
“15.15 Compliance with Covered Indenture. The Government Entity will observe, perform and fulfill each provision in the Covered Indenture applicable to such Government Entity in effect from time to time during the pendency of this Contract and each transaction, as any of those provisions may be amended, supplemented or modified for purposes of the Contract with the prior written consent of EA (the “Incorporated Provisions”), with the effect that EA will have the benefit of each of the Incorporated Provisions (including without limitation, covenants, right to consent to certain actions subject to consent under the Covered Indenture and delivery of financial statements and other notices and information). In the event the Covered Indenture ceases to be in effect prior to the termination of the Contract, the Incorporated Provisions (other than those provisions requiring payments in respect of bonds, notes, warrants or other similar instruments issued under the Covered Indenture) will remain in full force and effect for purposes of the Contract as though set forth herein until such date on which all of the obligations of the Government Entity under the Contract and any obligations of the Government Entity have been fully satisfied. The Incorporated Provisions are hereby incorporated by reference and made a part of the Contract to the same extent as if such provisions were set forth herein. For purposes of the Contract, the Incorporated Provisions shall be construed as though (i) all references therein to any party making loans, extensions of credit or financial accommodations thereunder or commitments therefor (the “Financings”) were to EA (but without imposing any obligation or liability with respect to EA) and (ii) to the extent that such Incorporated Provisions are conditioned on or relate to the existence of such Financings or the Government Entity having any obligations in connection therewith, all references to such Financings or obligations were to the obligations of the Government Entity under the Contract. Any amendment, supplement, modification or waiver of any of the Incorporated Provisions without the prior written consent of EA shall have no force and effect with respect to the Contract. Any amendment, supplement or modification for which such consent is obtained shall be part of the Incorporated Provisions for purposes of the Contract.

15.16 Notice of Incipient Illegality. If an Incipient Illegality occurs, the Government Entity will, promptly upon becoming aware of it, notify EA, specifying the nature of that Incipient Illegality and will also give such other information about that Incipient Illegality as EA may reasonably require.”

IN WITNESS WHEREOF the parties have executed this Municipal Rider to supplement and, where applicable, to amend the Base Contract, together with the Special Provisions, by and between the parties.

Energy America, LLC

City of Long Beach

By:  _____

By:  _____

Name: **Son Tran**
Title: **Director & Sr. Counsel**

Name: Patrick H. West
Title: City Manager

Date: 12/15/16

APPROVED AS TO FORM ¹⁶
12.27, 20

Date: 12/27/16


CHARLES PARKIN, City Attorney
By _____
RICHARD ANTHONY
DEPUTY CITY ATTORNEY

Assistant City Manager

EXECUTED PURSUANT
TO SECTION 301 OF
THE CITY CHARTER.