

AGREEMENT NO. S23103F

BETWEEN

RIVERSIDE TRANSIT AGENCY

AND

GHI ENERGY, LLC

THIS AGREEMENT is made and entered into this 28th day of November 2023, by and between the RIVERSIDE TRANSIT AGENCY, located at 1825 Third Street, Riverside, California 92507 (hereinafter referred to as "AGENCY"), and GHI Energy, LLC, located at 835 Knitting Mills Way, Wyomissing, PA 19610 (hereinafter referred to as "CONSULTANT").

WITNESSETH:

WHEREAS, AGENCY desires the services of CONSULTANT to provide natural gas discount and management services of credit programs as stated in Exhibit A, "Scope of Services", in accordance with Title 17 of the California Code of Regulations; and

WHEREAS, said work cannot be performed by the regular employees of AGENCY; and

WHEREAS, CONSULTANT has represented that it has the requisite personnel and experience, and is capable of performing such services; and

WHEREAS, CONSULTANT wishes to perform these services;

NOW, THEREFORE, it is mutually understood and agreed by AGENCY and CONSULTANT as follows:

ARTICLE 1. COMPLETE AGREEMENT

A. This Agreement, and the exhibits and documents incorporated herein and made applicable by reference, including "Federal Transit Administration Required Clauses", incorporated herein as Attachment A, including Exhibit A, "Scope of Services", and Exhibit B, entitled "Consultant's Proposal - Price/Revenue Form" of RFP No. S23103F, "NAESB Agreement (Base Contract for Retail Sale and Purchase of Natural Gas or Electricity)", "Addendum to Base Contract for Retail Sale and Purchase of Natural Gas or Electricity" and "Transaction Confirmation for Immediate Delivery", constitutes the complete and exclusive statement of the terms and conditions of the Agreement between AGENCY and CONSULTANT and supersedes all prior representations, agreements, understandings and communications with respect thereto.

B. Changes to any portion of this Agreement shall not be binding upon AGENCY except when

specifically confirmed in writing by an authorized representative of AGENCY by way of a written amendment to this Agreement and issued in accordance with the provisions contained in this Agreement.

ARTICLE 2. ORDER OF PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement and all subsequent Amendments to this Agreement, including all exhibits and documents attached hereto; (2) the provisions of RFP No. S23103F as addended; (3) CONSULTANT'S proposal dated August 22, 2023, and; (4) all other documents, if any, cited herein or incorporated by reference.

ARTICLE 3. TERM OF AGREEMENT

A. This Agreement shall commence upon execution by both AGENCY and CONSULTANT, and shall continue in full force and effect from January 1, 2024 through December 31, 2026 ("Initial Term"), unless earlier terminated or extended as provided in this Agreement.

B. AGENCY, at its sole discretion, may elect to extend the term of the Agreement up to an additional twelve (12) months, commencing January 1, 2027 and continuing through December 31, 2027 ("First Option Term"), and thereupon require CONSULTANT to continue to provide services, and otherwise perform, in accordance with Exhibit A, "Scope of Services", and Exhibit B "CONSULTANT's proposal – Price/Revenue Form".

C. AGENCY, at its sole discretion, may elect to extend the term of the Agreement up to an additional twelve (12) months, commencing January 1, 2028 and continuing through December 31, 2028 ("Second Option Term"), and thereupon require CONSULTANT to continue to provide services, and otherwise perform, in accordance with Exhibit A, "Scope of Services", and Exhibit B "CONSULTANT's proposal – Price/Revenue Form".

D. AGENCY's election to extend the Agreement beyond the "Initial Term" shall not diminish its right to terminate the Agreement for AGENCY'S convenience or CONSULTANT'S default, as provided elsewhere in this Agreement. The "Maximum Term" of this Agreement shall be the period extending from January 1, 2024 through December 31, 2028 which period encompasses the Initial Term, First Option Term and Second Option Term.

ARTICLE 4. AGENCY DESIGNEE

The Chief Executive Officer of AGENCY, or their designee, shall have the authority to act for and exercise any rights of AGENCY as set forth in this Agreement, subsequent to and in accordance with, the authorization granted by AGENCY's Board of Directors.

ARTICLE 5. NOTICES

All notices hereunder and communications regarding the interpretation of the terms of this Agreement, or changes thereto, shall be effected by delivery of said notice(s) in person or by depositing said notice(s) in the U.S. Mail, registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

TO AGENCY:

Riverside Transit Agency
1825 Third Street
P.O. Box 59968
Riverside, CA 92517-1968

ATTENTION: Melissa Blankenship

Title: Director of Contracts
Phone: (951) 565-5192
Email: mblankenship@riversidetransit.com

TO CONSULTANT:

GHI Energy, LLC
835 Knitting Mills Way
Wyomissing, PA 1910

ATTENTION: John Cook
Title: Sr Mgr, Business Development
Phone: (610) 373-7999 x1383
Email: jcook@ugies.com

ARTICLE 6. STATEMENT OF SERVICES

A. CONSULTANT shall perform the work necessary to complete, in a manner satisfactory to AGENCY, the services set forth in Exhibit A, "Scope of Services", inclusive of all attachments set forth herein. CONSULTANT shall also perform in accordance with its proposal to AGENCY dated August 22, 2023. All services shall be provided at the times and places designated by AGENCY.

B. CONTRACTOR shall provide the personnel as proposed to perform the services, which persons are hereby designated as key personnel under this Agreement. No person identified as key personnel, or his/her successor approved by AGENCY, shall be removed or replaced by CONTRACTOR, nor shall his/her agreed upon function or level of commitment hereunder be changed, without prior written consent of AGENCY. Should the services of any key personnel become no longer available to CONTRACTOR, the resume and qualifications of the proposed replacement shall be submitted to AGENCY for approval as soon as possible, but, in no event, later than seven (7) calendar days prior to the departure of the incumbent key personnel, unless CONTRACTOR is not provided with such notice by the departing key personnel. AGENCY shall respond to CONTRACTOR within seven (7) calendar days following receipt of these qualifications concerning acceptance of the proposed replacement.

FUNCTION**NAME**

Senior Manager of Business Development

John Cook

Business Development Analyst

Alex Myers

Senior Manager of Power Marketing

Matt Dillion

Senior Manager of RNG

Kyle Ziegler

C. No person named in paragraph B of this Article, or his/her successor approved by AGENCY, shall be removed or replaced by CONTRACTOR, nor shall his/her agreed-upon function or level of commitment hereunder be changed, without the prior written consent of AGENCY. Should the services of any key person become no longer available to CONTRACTOR, the resume and qualifications of the proposed replacement shall be submitted to AGENCY for approval as soon as possible, but in no event later than seven (7) calendar days prior to the departure of the incumbent key person, unless CONTRACTOR is not provided with such notice by the departing employee. AGENCY shall respond to CONTRACTOR within seven (7) calendar days following receipt of these qualifications concerning acceptance of the candidate for replacement.

D. AGENCY shall have the right to request removal of any project personnel by providing timely and written notice to CONTRACTOR.

ARTICLE 7. DELIVERY SCHEDULE – RESERVED

ARTICLE 8. ACCEPTANCE/REJECTION – RESERVED

ARTICLE 9. MAXIMUM OBLIGATION - RESERVED

ARTICLE 10. AGENCY REIMBURSEMENT/PAYMENT

RTA shall be reimbursed in accordance with CONSULTANT's proposal dated August 22, 2023; supporting documentation will be sent to AGENCY as stipulated per the "Transaction Confirmation for Immediate Delivery" document that includes natural gas discount and calculations of credits generated and their value. RTA shall purchase natural gas directly from SoCalGas.

ARTICLE 11. PROMPT PAYMENT – RESERVED

ARTICLE 12. INDEPENDENT CONTRACTOR

CONSULTANT'S relationship to AGENCY in the performance of this Agreement is that of an Independent Contractor. CONSULTANT's personnel performing services under this Agreement shall at all times be under CONSULTANT's exclusive direction and control and shall be employees of CONSULTANT and not employees of AGENCY. CONSULTANT shall pay all wages, salaries and other

amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as social security, income tax withholding, unemployment compensation, worker's compensation and similar matters.

ARTICLE 13. ASSIGNMENTS

Neither this Agreement, nor any interest herein or claim hereunder, may be assigned by CONSULTANT either voluntarily or by operation of law, nor may all, or any part, of this Agreement be sub-contracted by CONSULTANT, without the prior written consent of AGENCY. Consent by AGENCY shall not be deemed to relieve CONSULTANT of its obligation to comply fully with all terms and conditions of this Agreement.

ARTICLE 14. BONDING – RESERVED

ARTICLE 15. INSURANCE

CONSULTANT shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, employees or subcontractors.

Minimum Scope and Limit of Insurance

Coverage shall be at least as broad as:

1. Commercial General Liability (CGL): Insurance Services Office (ISO) Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2. Automobile Liability: ISO Form Number CA 0001 covering any auto (Code 1), or if CONSULTANT has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

3. Workers' Compensation: Insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease. If the CONSULTANT maintains higher limits than the minimums shown above, the Agency requires and shall be entitled to coverage for the higher limits maintained by the CONSULTANT. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Agency.

4. Professional Liability (Errors and Omissions) Insurance appropriate to the Consultant's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The AGENCY and their officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONSULTANT'S insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10 and CG 20 37 forms if later revisions used).

Primary Coverage

For any claims related to this contract, the CONSULTANT'S insurance coverage shall be primary insurance as respects the AGENCY and their officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the AGENCY or their officers, officials, employees, or volunteers shall be excess of the CONSULTANT'S insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall state that coverage shall not be canceled, except with notice to the AGENCY.

Waiver of Subrogation

CONSULTANT hereby grants to AGENCY a waiver of any right to subrogation which any insurer of said CONSULTANT may acquire against the AGENCY by virtue of the payment of any loss under such insurance. CONSULTANT agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the AGENCY has received a waiver of subrogation endorsement from the insurer.

Claims Made Policies

1. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of the work.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the AGENCY. The AGENCY may require the CONSULTANT to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the AGENCY.

Verification of Coverage

CONSULTANT shall furnish the AGENCY'S Director of Contracts, or his designee, with original certificates and amendatory endorsements or copies of the applicable policy language effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the AGENCY before work commences. However, failure to obtain the required documents prior to the work beginning shall not waive the CONSULTANT'S obligation to provide them. The AGENCY reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Sub-contractor

CONSULTANT shall require and verify that all sub-contractors maintain insurance meeting all the requirements stated herein, and CONSULTANT shall ensure that AGENCY is additional insured on insurance required for sub-contractors.

Special Risks or Circumstances

AGENCY reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

ARTICLE 16. INDEMNIFICATION

CONSULTANT shall hold harmless, defend, and indemnify AGENCY and its officers, officials, employees, and volunteers from and against any and all liability, loss, damage, expense, and costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with CONSULTANT's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of AGENCY.

1. AGENCY shall promptly give written notice to CONSULTANT after obtaining knowledge of any Third Party Claim against AGENCY as to which recovery may be sought against CONSULTANT because of the indemnity set forth in clause 1. above.

2. CONSULTANT will have the right to defend AGENCY against any such Third Party Claim with counsel mutually agreed upon by CONSULTANT and AGENCY. In addition:

a. AGENCY may retain separate co-counsel at its sole cost and expense to monitor the defense of such Third Party Claim provided, however, that CONSULTANT shall have the right to control the defense of such Third Party Claim in CONSULTANT'S sole discretion;

b. AGENCY will not consent to the entry of any judgment or enter into any settlement with respect to such Third Party Claim without the prior written consent of CONSULTANT; and

c. AGENCY shall cooperate with all reasonable requests of CONSULTANT in connection with the defense of such Third Party Claim.

3. To the extent reasonably possible, AGENCY shall use its good faith efforts to mitigate any losses that CONSULTANT is obligated to indemnify against, pursuant to this indemnification provision.

ARTICLE 17. CHANGES

By written notice or order, AGENCY may, from time to time, order work suspension or make changes to the general scope of this Agreement, including, but not limited to, the services furnished to AGENCY by CONSULTANT as described in Exhibit A – Scope of Services. If any such work suspension or change causes an increase or decrease in the price of this Agreement or in the time required for its performance, CONSULTANT shall promptly notify AGENCY thereof and assert its claim for adjustment within ten (10) days after the change or work suspension is ordered, and an equitable adjustment shall be negotiated. Nothing in this provision shall excuse CONSULTANT from otherwise proceeding immediately with Agreement as changed.

ARTICLE 18. MODIFICATIONS – RESERVED

ARTICLE 19. SEVERABILITY

If any provision, term or condition of this Agreement is held to be invalid, illegal or unenforceable, in whole or in part, then such provision, term or condition shall not affect the validity of any remaining provision, term or condition of this Agreement. All remaining provisions, terms and conditions of this Agreement shall continue in full force and effect.

ARTICLE 20. NON-WAIVER

AGENCY'S failure to insist in any one or more instances to require performance by CONSULTANT of any term(s) or condition(s) of this Agreement shall not be construed as a waiver or relinquishment of AGENCY'S right to such performance and shall not affect AGENCY'S right to such performance or to future performance of any such term(s) or condition(s) and CONSULTANT'S obligation with respect thereto shall continue in full force and effect.

ARTICLE 21. TERMINATION

A. AGENCY may terminate this Agreement for its convenience any time, in whole or in part, by giving CONSULTANT written notice thereof. Upon termination, AGENCY shall pay CONSULTANT its allowable costs incurred to date of that portion terminated. Said termination shall be construed in accordance with the provisions of the Federal Acquisition Regulation (FAR), Part 31.205 and Part 49, the specific sub-parts and other provisions thereof, applicable to termination for convenience. If AGENCY sees fit to terminate this Agreement for convenience, said notice shall be given to CONSULTANT in accordance with the provisions of the FAR referenced above and Article 5 "Notices", herein. Upon receipt of said notification, CONSULTANT agrees to comply with all applicable provisions of the FAR pertaining to termination for convenience.

B. CONSULTANT shall have no rights to terminate this Agreement or any sub-contracts under this Agreement for CONSULTANT's convenience.

C. CONSULTANT shall have no rights to terminate any sub-contracts for cause and then perform the work with its own forces without AGENCY's prior written consent. AGENCY reserves the right to require CONSULTANT to replace its terminated sub-contractors with another sub-contractor agreeable to AGENCY, and to do so without any increase or delay in the performance of this Agreement.

D. AGENCY may terminate this Agreement for CONSULTANT's default if a federal or state proceeding for the relief of debtors is undertaken by or against CONSULTANT, or if CONSULTANT makes an assignment for the benefit of creditors, or if CONSULTANT breaches any term(s) or violates any provision(s) of this Agreement and does not cure such breach or violation within thirty (30) calendar days after written notice thereof by AGENCY. CONSULTANT shall be liable for any and all reasonable cost incurred by AGENCY as a result of such default including, but not limited to, re-procurement costs of the same or similar services defaulted on by CONSULTANT under this Agreement. Such termination shall comply with the Federal Acquisition Regulation (FAR), Part 31.205 and Part 49.

ARTICLE 22. FORCE MAJEURE

Either party shall be excused from performing its obligations under this Agreement during the time and to the extent that it is prevented from performing by an unforeseeable cause beyond its control including, but not limited to: any incidence of fire or flood; acts of God; commandeering of material, products, plants or facilities by the federal, state or local government; national fuel shortage; a material act of omission by the other party; or strike, when satisfactory evidence of such cause is presented to the other party, and further provided that such nonperformance is unforeseeable, beyond the control and is not due to the fault or negligence of the party not performing.

ARTICLE 23. FEDERAL, STATE AND LOCAL LAWS

CONSULTANT warrants that in the performance of this Agreement, it shall comply with all applicable federal, state, and local laws, statutes, ordinances, lawful orders, rules and regulations promulgated thereunder.

ARTICLE 24. GOVERNING LAW

This Agreement shall be interpreted and construed according to, and governed by, the laws of the State of California. The federal or state courts located in the County of Riverside, State of California, shall have jurisdiction to hear any dispute under this Agreement.

ARTICLE 25. STANDARD OF CARE

A. CONTRACTOR represents that it is fully experienced and properly qualified to perform the class of services required for this Agreement and that it is properly licensed, equipped, organized and financed to perform the Services.

B. CONTRACTOR shall perform the Services under this Agreement in a skillful and competent manner, consistent with the standard generally recognized being employed by professionals in the same discipline in the State of California. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Finally, CONTRACTOR represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services and that such licenses and approvals shall be maintained throughout the term of this Agreement. CONTRACTOR shall perform, at its own cost and expense and without reimbursement from AGENCY, any Services necessary to correct errors or omissions which are caused by CONTRACTORS'S failure to comply with the standard of care provided for herein, and shall be fully responsible to AGENCY for all damages and other liabilities provided for in the indemnification provisions of this Agreement arising from CONTRACTOR'S errors and omissions.

ARTICLE 26. PROHIBITED INTERESTS

A. CONTRACTOR covenants that, for the term of this Agreement, no director, member, officer or employee of AGENCY during his/her tenure in office or for one (1) year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

B. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to the benefits thereof.

ARTICLE 27. PRIVACY ACT REQUIREMENTS

CONTRACTOR shall comply with, and assures the compliance of its employees with, the

information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. §552a. Among other things, CONTRACTOR agrees to obtain the express consent of the Federal Government before CONTRACTOR or its employees operate a system of records on behalf of the Federal Government. CONTRACTOR understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

ARTICLE 28. OWNERSHIP OF REPORTS AND DOCUMENTS

The originals of all custom letters, documents and reports produced under this Agreement shall be delivered to and become the property of AGENCY. Copies may be made for CONSULTANT's records, and in performance of the underlying Agreement, but shall not be furnished to others without the express written authorization from AGENCY. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by AGENCY.

ARTICLE 29. FINISHED AND PRELIMINARY DATA – RESERVED

ARTICLE 30. AUDIT AND INSPECTION OF RECORDS

CONTRACTOR shall provide AGENCY, the U.S. Department of Transportation (DOT), the Comptroller General of the United States, or other agents of AGENCY, such access to CONTRACTOR'S accounting books, records, payroll documents and facilities of CONTRACTOR which are directly pertinent to this Agreement for the purposes of examining, auditing and inspecting all accounting books, records, work data, documents and activities related hereto. CONTRACTOR shall maintain such books, records; data and documents in accordance with generally accepted accounting principles and shall clearly identify and make such items readily accessible to such parties during CONTRACTOR'S performance hereunder and for a period of four (4) years from the date of final payment by AGENCY. AGENCY'S right to audit books and records directly related to this Agreement shall also extend to all first-tier subcontractors identified in Article 13 "Assignments" of this Agreement. CONTRACTOR shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably necessary.

ARTICLE 31. PATENT AND COPYRIGHT INFRINGEMENT

In lieu of any other warranty by AGENCY or CONSULTANT against patent or copyright infringement, statutory or otherwise, it is agreed that CONSULTANT shall defend, at its expense, any claim or suit against AGENCY on account of any allegation that any item furnished under this Agreement

or the normal use or sale thereof, arising out of the performance of this Agreement, infringes upon any presently existing U.S. letters patent or copyright and CONSULTANT shall pay all costs and damages finally awarded in any such suit or claim, provided CONSULTANT is promptly notified in writing of the suit or claim and given AGENCY, information and assistance at CONSULTANT's expense for the defense of same. However, CONSULTANT will not indemnify AGENCY if the suit or claim results from: (1) AGENCY's alteration of a deliverable, such that said deliverable in its altered form infringes upon any presently existing U.S. letters patent or copyright; or (2) the use of a deliverable in combination with other material not provided by CONSULTANT when such use in combination infringes upon an existing U.S. letters patent or copyright.

CONSULTANT shall have sole control of the defense of any such claim or suit and all allegations for settlement thereof. CONSULTANT shall not be obligated to indemnify AGENCY under any settlement made without CONSULTANT's consent or in the event AGENCY fails to cooperate fully in the defense of any suit or claim, provided, however, that said defense shall be at CONSULTANT's expense. If the use or sale of said item is enjoined as a result of such suit or claim, CONSULTANT, at no expense to AGENCY, shall obtain for AGENCY, the right to use and sell said item, or shall substitute an equivalent item acceptable to AGENCY and extend this patent and copyright indemnity thereto.

ARTICLE 32. WARRANTY- RESERVED

ARTICLE 33. DISPUTES

A. Except as otherwise provided for in this Agreement, any dispute concerning a question of fact arising under this Agreement, which is not disposed of by supplement agreement, shall be decided by AGENCY'S Director of Contracts, who shall reduce the decision to writing and shall mail, or otherwise furnish a copy thereof to CONSULTANT. The decision of the Director of Contracts shall be final and conclusive unless, within thirty (30) calendar days from the date of receipt of such copy, CONSULTANT mails or otherwise furnishes to the Director of Contracts a written appeal addressed to AGENCY'S Chief Executive Officer. The decision of the AGENCY's Chief Executive Officer, or duly authorized representative for the determination of such appeals, shall be final and conclusive.

B. Any such decision made pursuant to this Article shall be final and conclusive, unless the same is fraudulent, capricious, arbitrary or so grossly erroneous as to necessarily imply bad faith or is not supported by substantial evidence. In cases where fraud by such official or his representative or Board is alleged, the provisions of this Article shall not be pleaded in any suit as limiting judicial review of any such decision.

C. Pending final decision of a dispute hereunder, CONSULTANT shall proceed diligently with the performance of this Agreement in accordance with the decision of AGENCY's Director of Contracts. This "Disputes" clause does not preclude consideration of questions in law in connection with decisions

provided for above. Nothing in this Agreement, however, shall be construed as making the final decision of any AGENCY official or representative on a question of law, which questions shall be settled in accordance with the laws of the State of California.

ARTICLE 34. RECORDS RETENTION

CONTRACTOR agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case CONTRACTOR agrees to maintain same for a period of not less than three years after the date AGENCY has disposed of all such litigation, appeals, claims or exceptions related thereto.

ARTICLE 35. LIQUIDATED DAMAGES - RESERVED

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This Agreement shall be made effective upon execution by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement No. S23103F to be executed on the date first written above.

GHI ENERGY, LLC

DocuSigned by:
By:  
5FE3A620CB6445...

Anthony Cox
Vice President

RIVERSIDE TRANSIT AGENCY

DocuSigned by:
By: 
00883D6B1C01488

Kristin Warsinski
Chief Executive Officer

APPROVED AS TO FORM:

DocuSigned by:
By: 
A6ABD43006024C1...

Barbara Raileanu
General Counsel

FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES OVER \$100,000**1. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES**

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. FALSE STATEMENTS OR CLAIMS CIVIL AND CRIMINAL FRAUD OR RELATED ACTS

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

3. ACCESS TO THIRD PARTY CONTRACT RECORDS

(1) Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 2 C.F.R. Part 200.326, the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

(2) Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

(3) Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

(4) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(5) The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than four years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 2 CFR Part 200.333.

4. CHANGES TO FEDERAL REQUIREMENTS

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

5. TERMINATION

RTA may terminate the P.O./Contract in whole or in part for RTA's convenience or for Furnisher's default. RTA will notify the Furnisher regarding the nature, extent, and effective date of the termination. Upon receipt of the notice, Furnisher shall: (a) immediately discontinue all services affected and (b) deliver to RTA all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing P.O./Contract, whether completed or in process. If the termination is for RTA's convenience, RTA shall make an equitable price adjustment, but shall not allow anticipated profit on unperformed services. If the termination is for Furnisher's default, Furnisher must reimburse RTA for all costs of re-procurement.

6. CIVIL RIGHTS

During the performance of this contract, the contractor agrees as follows:

NONDISCRIMINATION

(1) In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

EQUAL OPPORTUNITY

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action 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. The

FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES OVER \$100,000

contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided*, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

EQUAL OPPORTUNITY FEDERALLY ASSISTED CONSTRUCTION CONTRACTS

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES OVER \$100,000

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

7. DISADVANTAGED BUSINESS ENTERPRISES (DBEs)

(1) This contract is subject to the requirements of 49 CFR Part 26, "Participation by DBEs in DOT Financial Assistance Programs". The national goal for participation of DBEs is 10%. RTA's overall goal for DBE participation is 2.1%. A separate contract goal has not been established for this procurement.

(2) Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as RTA deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

(3) **Prompt Payment** – Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from RTA. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by RTA and Contractor's receipt of the partial retainage payment related to the subcontractor's work.

The Contractor must promptly notify RTA, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of RTA.

8. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any RTA requests which would cause RTA to be in violation of the FTA terms and conditions.

9. DEBARMENT AND SUSPENSION

(1) This contract is a covered transaction as defined in U.S. DOT regulations, 2 CFR 180 that implements Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235); "Debarment and Suspension." and, as such, Contractor must confirm it is not excluded or disqualified from participating in covered transactions funded in whole or in part with Federal funds.

(2) By signing and submitting its bid or proposal, Contractor certifies it is not excluded or disqualified from participating in a covered transaction funded in whole or in part with Federal funds. Contractor further certifies that this certification is a material representation of fact relied upon by RTA. If it is later determined the Contractor knowingly rendered an erroneous certification, in addition to remedies available to RTA, the Federal Government may pursue available remedies including, but not limited to suspension and/or debarment.

(3) Contractor further agrees to include, and require its Third Party Participants to include a similar condition in each lower tier covered transaction, assuring that all lower tier Third Party Participants:

- (a) Will comply with Federal debarment and suspension requirements, and
- (b) Review the "Excluded Parties Listing System" at <https://www.sam.gov>, as needed to comply with U.S. DOT regulations, 2 CFR part 1200.

10. BUY AMERICA

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, manufactured products and construction materials used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content. A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive.

11. RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION

(1) Except as otherwise provided for in this Agreement, any dispute concerning a question of fact arising under this Agreement, which is not disposed of by supplement agreement shall be decided by AGENCY'S Director of Contracts, who shall reduce the decision to writing and shall mail, or otherwise furnish a copy thereof to Contractor. The decision of the Director of Contracts shall be final and conclusive unless, within thirty (30) calendar days from the date of receipt of such copy, Contractor mails or otherwise furnishes to the Director of Contracts a written appeal addressed to AGENCY'S Chief Executive Officer. The decision of the AGENCY'S Chief Executive Officer, or duly authorized representative for the determination of such appeals, shall be final and conclusive.

(2) Any such decision made pursuant to this Article shall be final and conclusive, unless the same is fraudulent, capricious, arbitrary or so grossly erroneous as to necessarily imply bad faith or is not supported by substantial evidence. In cases where fraud by such official or his representative or Board is alleged, the provisions of this Article shall not be pleaded in any suit as limiting judicial review of any such decision.

(3) Pending final decision of a dispute hereunder, Contractor shall proceed diligently with the performance of this Agreement in accordance with the decision of AGENCY'S Director of Contracts. This clause does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Agreement, however, shall be construed as making the final decision of any AGENCY official or representative on a question of law, which questions shall be settled in accordance with the laws of the State of California.

FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES OVER \$100,000**12. LOBBYING**

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying". Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

13. CLEAN AIR

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

14. CLEAN WATER

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

15. CARGO PREFERENCE

The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

16. FLY AMERICA

Contractor agrees:

(1) To comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.

(2) To include the requirements of this section in all subcontracts that may involve international air transportation.

17. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

RESERVED

18. CONTRACT WORK HOURS AND SAFETY STANDARDS

Contractor shall comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

19. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT

If the federal award meets the definition of "funding agreement" under 37 CFR 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement" the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES OVER \$100,000**20. PROMPT PAYMENT**

(1) The prime Contractor or Subcontractor shall return all monies withheld in retention from a subcontractor within thirty (30) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by AGENCY. Any delay or postponement of payment over thirty (30) days may take place only for good cause and with AGENCY'S prior written approval. Any violation of this provision shall subject the violating Prime Contractor or Subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the Prime Contractor or Subcontractor, in the event of a dispute involving late payment or non-payment by the Prime Contractor, deficient subcontract performance, or noncompliance by a subcontractor. This provision applies to both Disadvantaged Business Enterprise (DBE) and non-Disadvantaged Business Enterprise (non-DBE) Prime Contractors and Subcontractors.

(2) Failure to comply with this provision or delay in payment, without prior written approval from AGENCY, will constitute noncompliance, which may result in the termination of the Agreement or other such remedy as AGENCY deems appropriate. AGENCY reserves the right to request the appropriate documentation from Contractor showing payment has been made to the Subcontractor(s).

(3) These Prompt Payment provisions must be incorporated in all subcontract agreements issued by Contractor under this Agreement.

21. BONDING

RESERVED

22. SEISMIC SAFETY

The following requirement applies to contracts involving architectural/engineering for and/or construction of new buildings or additions.

Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

23. TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

RESERVED

24. DRUG USE, ALCOHOL MISUSE AND TESTING

RESERVED

25. RIGHTS IN DATA AND PATENT RIGHTS

The following requirement applies to contracts involving experimental, developmental, or research work.

A. **Rights in Data** - The following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 2 C.F.R. Part 200.315, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES OVER \$100,000

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

26. ENERGY CONSERVATION

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

27. RECOVERED MATERIALS

Contractor agrees to comply with all the requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. This includes procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; Designated items include vehicular, construction, transportation and landscaping products, non-paper office products, and miscellaneous products.

28. ADA ACCESS

Contractor agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities:

(1) **Federal laws**, including

(a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, prohibiting discrimination on the basis of disability in the administration of federally funded programs or activities;

(b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities;

(c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities;

(d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and

(e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities.

(2) **Federal regulations**, including

(a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)", 49 C.F.R. part 37;

(b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance", 49 C.F.R. part 27;

(c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels", 49 C.F.R. part 39;

(d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "ADA Accessibility Specifications for Transportation Vehicles", 36 C.F.R. part 1192 and 49 C.F.R. part 38;

(e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Service", 28 C.F.R. part 36;

(f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities", 28 C.F.R. part 36;

(g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act", 29 C.F.R. part 1630;

(h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities", 47 C.F.R. part 64, Subpart F;

FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES OVER \$100,000

- (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards", 36 C.F.R. part 1194, and
- (j) FTA regulations, "Transportation for Elderly and Handicapped Persons", 40 C.F.R. part 609.
- (3) Other applicable Federal civil rights and nondiscrimination guidance.

29. PRIVACY ACT

CONTRACTOR shall comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. §552a. Among other things, CONTRACTOR agrees to obtain the express consent of the Federal Government before the CONTRACTOR or its employees operate a system of records on behalf of the Federal Government. CONTRACTOR understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Agreement.

30. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

Contractor agrees to comply with the following:

- (a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - (1) Procure or obtain;
 - (2) Extend or renew a contract to procure or obtain; or
 - (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
- (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- (b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- (c) See Public Law 115-232, section 889 for additional information.
- (d) See also § 200.471.

31. SPECIAL PROVISION FOR PROMOTING COVID-19 SAFETY**Section 49. Centers for Disease Control and Prevention Order on Requirements for Persons to Wear Masks While on Conveyances and at Transportation Hubs.**

- (a) *Compliance with CDC Mask Order.* The Centers for Disease Control and Prevention ("CDC") Order of January 29, 2021, titled Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs ("CDC Mask Order"), is within the meaning of "Federal Requirement" as that term is defined in this Master Agreement. One of the objectives of the CDC Mask Order is "maintaining a safe and operating transportation system." The Recipient agrees that it will comply, and will require all Third-Party Participants to comply, with the CDC Mask Order.
- (b) *Enforcement for non-compliance.* The Recipient agrees that FTA may take enforcement action for non-compliance with the CDC Mask Order, including:
 - (1) Enforcement actions authorized by 49 U.S.C. § 5329(g);
 - (2) Referring the Recipient to the CDC or other Federal authority for enforcement action;
 - (3) Enforcement actions authorized by 2 CFR §§ 200.339 – .340; and
 - (4) Any other enforcement action authorized by Federal law or regulation.

32. VETERANS EMPLOYMENT

Contractors working on a capital project funded using FTA assistance shall give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

33. NOTIFICATION TO FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Contractor must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Agency is located. The Contractor must include this provision in its subagreements at every tier, for any agreement that is a covered agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

- 1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- 2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
- 3) **Additional Notice to U.S. DOT Inspector General.** The Contractor must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Agency is located if the Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31

FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES OVER \$100,000

U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Contractor and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Contractor. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of the Contractor, including divisions tasked with law enforcement or investigatory functions.

34. SAFE OPERATION OF MOTOR VEHICLES

(a) The Contractor agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:

- 1) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles; and
- 2) Including a "Seat Belt Use" provision in each third party agreement related to the Award.

(b) *Distracted Driving, Including Text Messaging While Driving.* The Contractor agrees to comply with:

- 1) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225);
- 2) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and
- 3) The following U.S. DOT Special Provision pertaining to Distracted Driving:

Safety. The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award;

Contractor Size. The Contractor agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and

Extension of Provision. The Contractor agrees to include the preceding Special Provision of section 34(b)(3)(i) – (ii) of this Master Agreement in its third party agreements, and encourage its Third Party Participants to comply with this Special Provision, and include this Special Provision in each third party subagreement at each tier supported with federal assistance.

EXHIBIT A

SCOPE OF SERVICES

EXHIBIT A

SCOPE OF SERVICES

Introduction

The Riverside Transit Agency (RTA) is seeking proposals from qualified firms to provide solutions on how best to (1) meet its daily natural gas requirements at a minimum cost and (2) maximize the value of alternative fuel credits available to the RTA. Potential vendors shall propose a solution that both meets the Agency's natural gas requirements and allows the Agency to remain eligible for credits through the California Low Carbon Fuel Standard (LCFS) and federal Renewable Identification Numbers (RIN) programs.

Background

The RTA was established as a Joint Powers Agency in 1975, and began operating bus service in 1977. The transit service area is approximately 2,500 square miles and is serviced with both fixed and demand response routes. The area is bounded to the north by San Bernardino County, to the east by the San Jacinto Mountains and Coachella Valley sub-region of Riverside County, to the west by Orange County and to the south by San Diego County. The RTA provides bus service to both urban and rural areas, which includes 18 incorporated cities and numerous unincorporated communities.

The RTA currently operates a fleet of 145 Compressed Natural Gas (CNG) buses out of two facilities. One facility is located at 1825 Third Street, Riverside, CA (Riverside) and the other facility is located at 700 Scaramella Circle, Hemet, CA (Hemet). Both facilities contain on-site CNG fueling dispensers. The Hemet facility also includes a public access CNG fueling station which is accessible 24 hours per-day, seven days per-week. RTA fuels its buses with CNG every day of the year. The public utility supplying natural gas to the geographical area covered by RTA is the Southern California Gas Company (SoCalGas).

Since 2013, RTA has contracted with a third-party natural gas marketer for the provision of its natural gas requirements as well as the management of its RINs and LCFS programs. RTA's goal is to reduce its energy costs while maintaining the highest possible degree of reliability in its natural gas supply to ensure that buses can be fueled and operated every day of the year.

Natural Gas Services

RTA's CNG usage is approximately 2,500,000 therms annually. Monthly usage runs in the range of 175,000 to 250,000 therms and is expected to remain in that range in the near term. However, it should be noted that therm requirements could move up or down during the contract period. RTA's goal is to have safe and reliable delivery of all its natural gas requirements while achieving maximum cost savings and earning the maximum amount from alternative fuel credits, which at a minimum include RINs and LCFS credits. Pricing proposals can come in any format whereas the cost of the natural gas is adjusted up or down as the RINs and LCFS sharing is adjusted accordingly, providing the best overall option to the RTA. RTA's one requirement for natural gas pricing is that RTA pays a price for natural gas that is indexed to the SoCalGas monthly procurement rate. To accomplish this, potential vendors shall submit natural gas pricing based on one of two formats. 1) Natural gas is provided directly by the vendor and the price RTA pays the vendor is indexed to the floating monthly SoCalGas procurement rate. 2) RTA receives its natural gas directly from SoCalGas, and subsequently pays SoCalGas directly for the commodity. Either of the two options may or may not include a discount off the SoCalGas rate based on how the successful vendor structures their pricing in conjunction with the RINs and LCFS programs. Regardless of the source of the natural gas, RTA expects to accrue the full value of RINs and LCFS credits as if the natural gas it consumes is from renewable sources.

If a prospective vendor proposes to provide natural gas directly, then they must comply with all requirements of SoCalGas and the California Public Utilities Commission (CPUC) deemed necessary to deliver natural gas to RTA. The vendor must always assume full responsibility for guaranteed delivery of required volumes, including any periods during which supply is curtailed or restricted in any way by the local utility company or any other entity.

Federal RINs and California LCFS Programs

The RINs and LCFS programs were created to increase the use of renewable energy sources in transportation fuels and reduce Greenhouse Gas (GHG) emissions. Under its current arrangement, RTA generates RINs and LCFS credits that may be sold to third parties. The successful vendor shall provide all compliance and regulatory requirements of the RINs and LCFS programs, including but not limited to:

- Register (Opt In) as the regulated party on behalf of RTA
- Adherence to market rules
- Verification of actual emissions to regulatory agencies
- All compliance obligations promulgated by law
- Keep RTA informed of market conditions as necessary

Depending on the proposed method for gas delivery, the below are services that may or may not apply:

- Daily monitoring of natural gas usage
- Daily balancing as required by natural gas utility
- Billing services
- Natural gas information and consulting services
- Handle all gas supply and delivery arrangements (both gas suppliers and utility companies)
- Monitor gas infrastructure issues (gas supply, reliability) and strategies for curtailment protection
- Maintain an auditable “paper trail”
- Act as an advocate on relevant issues before the Public Utilities Commission
- Invoice RTA monthly for natural gas costs with a detailed breakdown of usage and cost per therm by meter

Overall Pricing Requirements

Prospective vendors should be as transparent as possible in explaining how they arrive at their prices and calculations and should add descriptive narratives when necessary. Offerors are to complete the price form referenced in Exhibit B.

Contact Period

The contract period for these services would consist of a base term effective from January 1, 2024 through December 31, 2026. There are two subsequent option year terms that may be exercised by RTA.

EXHIBIT B

CONSULTANT'S PROPOSAL

PRICE/REVENUE FORM

EXHIBIT B: PRICE/REVENUE FORM**RFP S23103F – Purchase Natural Gas and/or Management of Credit Programs**

Enter below the proposed price and revenue reimbursement for performance of the services and described in Exhibit A, Scope of Services. Pricing shall be inclusive of all costs and discounts associated with providing the services, completing the tasks, direct costs, indirect costs, and profit. This includes but is not limited to labor, materials, supplies, insurance, applicable taxes, and all other expenses necessary to perform the work. **Services are on an as needed basis with no guaranteed minimum level of service.**

	The natural gas commodity per therm price will be based on the SoCalGas floating index, per the rolling 12 month average (July 2022 - June 2023).	
	Enter proposed discount rate to be applied to "Full Price of Gas Per Therm" column	
	Enter the proposed amount of credits that you will provide the Agency with per therm, the price that you will compensate RTA per credit earned, and the RTA's proposed participation in the credits earned. The price per credit is based on the OPIS index in reference to the average price for the month of July 2023.	

EXAMPLE ONLY

NATURAL GAS					
Year	Year Type	Estimated Annual Therm Use	Full Price of Gas Per Therm	Vendor Discount	Cost to RTA
1	Base Year	2,500,000	\$ 1.2500	25.0%	\$ 2,343,750
2	Base Year	2,500,000	\$ 1.2500	25.0%	\$ 2,343,750
3	Base Year	2,500,000	\$ 1.2500	25.0%	\$ 2,343,750
4	Option Year	2,500,000	\$ 1.2500	25.0%	\$ 2,343,750
5	Option Year	2,500,000	\$ 1.2500	25.0%	\$ 2,343,750
Total					\$ 11,718,750

RINS			
RINS Credits Generated Per Therm	Price Per RINS Credit	RTA Share of RINS	RINS Revenue to RTA
1.298	\$ 2.7300	25.0%	\$ 2,214,713
1.298	\$ 2.7300	25.0%	\$ 2,214,713
1.298	\$ 2.7300	25.0%	\$ 2,214,713
1.298	\$ 2.7300	25.0%	\$ 2,214,713
1.298	\$ 2.7300	25.0%	\$ 2,214,713
Total			\$ 11,073,563

LCFS			
LCFS Credits Generated Per Therm	Price Per LCFS Credit	RTA Share of LCFS	LCFS Revenue to RTA
0.00125	\$ 76.00	100.0%	\$ 237,500
0.00125	\$ 76.00	100.0%	\$ 237,500
0.00125	\$ 76.00	100.0%	\$ 237,500
0.00125	\$ 76.00	100.0%	\$ 237,500
0.00125	\$ 76.00	100.0%	\$ 237,500
Total			\$ 1,187,500

PLEASE ENTER INFORMATION BELOW IN EMPTY CELLS THAT ARE COLOR CODED

NATURAL GAS					
Year	Year Type	Estimated Annual Therm Use	Full Price of Gas Per Therm	Vendor Discount	Cost to RTA
1	Base Year	2,500,000	\$ 0.95267	\$0.008	\$2,361,675
2	Base Year	2,500,000	\$ 0.95267	\$0.008	\$2,361,675
3	Base Year	2,500,000	\$ 0.95267	\$0.008	\$2,361,675
4	Option Year	2,500,000	\$ 0.95267	\$0.008	\$2,361,675
5	Option Year	2,500,000	\$ 0.95267	\$0.008	\$2,361,675
Total					\$ \$11,808,375

RINS			
RINS Credits Generated Per Therm	Price Per RINS Credit	RTA Share of RINS	RINS Revenue to RTA
1.1727	\$ 3.0389	17%	\$1,514,580
1.1727	\$ 3.0389	17%	\$1,514,580
1.1727	\$ 3.0389	17%	\$1,514,580
1.1727	\$ 3.0389	17%	\$1,514,580
1.1727	\$ 3.0389	17%	\$1,514,580
Total			\$ 7,572,901

LCFS			
LCFS Credits Generated Per Therm	Price Per LCFS Credit	RTA Share of LCFS	LCFS Revenue to RTA
.0313523	\$ 73.60	17%	\$980,700
.0312451	\$ 73.60	17%	\$977,348
.0311371	\$ 73.60	17%	\$973,968
.0310299	\$ 73.60	17%	\$970,616
.0309219	\$ 73.60	17%	\$967,237
Total			\$ 4,869,868

Index Name:

SOCALGAS

Index Name:

OPIS

Index Name:

OPIS

EXHIBIT B: PRICE/REVENUE FORM
RFP S23103F - Purchase Natural Gas and/or Management of Credit Programs

Are there any additional and/or incidental costs necessary to fully comply with this Request for Proposal? **No**

If yes, please attach additional pages to explain all such costs.


1. I acknowledge receipt of RFP S23103F and all Addendums via PlanetBids
2. This offer shall remain firm for 120 days from the date of proposal
(minimum 120)

COMPANY NAME: GHI Energy, LLC

ADDRESS: 835 Knitting Mills Way

CITY, STATE, ZIP CODE: Wyomissing, PA 19610

TELEPHONE: 610 373 7999 x1383

SIGNATURE OF PERSON
AUTHORIZED TO BIND OFFEROR


SIGNATURE'S NAME AND TITLE
Anthony Cox, Vice President

DATE SIGNED
9/12/23

By the above signature, the Offeror commits that it has read and understands the entire RFP and can provide the products/services set forth in this RFP for its proposed pricing.

SC
9/12/23

Base Contract for Retail Sale and Purchase of Natural Gas or Electricity

This Base Contract is entered into as of the following date: November 28, 2023, and such additional terms and conditions as are agreed to by Supplier and Customer and set forth in the Addendum hereto. The parties to the Base Contract are:

Supplier: GHI Energy, LLC	Customer: Riverside Transit Agency
835 Knitting Mills Way, Wyomissing, PA 19610	1825 Third Street Riverside, CA 92507
D-U-N-S Number: 118883641	D-U-N-S Number: 081813461
Contract Number: SCG0050	Contract Number: SCG0050
U.S. Federal Tax ID Number: 90-0888513	U.S. Federal Tax ID Number: 95-3129427

Notices:

Attn: <u>Frank Markle Legal, Sr. Counsel</u>	Attn: <u>Melissa Blankenship, Director of Contracts</u>
TEL#: (610) 373-7999 x1183 FAX#: (610) 374-4288	Phone: 951-565-5192 Fax: 951-565-5193

Confirmations:

ATTN: <u>Gas Supply Department - Manager</u>	Attn: <u>Charlie Ramirez, Chief Financial Officer</u>
TEL#: (610) 373-7999 x1383 FAX#: (610) 374-4288	Phone: 951-565-5156 Fax: 951-565-5157

Invoices and Payments:

Attn: <u>Supervisor Accounting</u>	Attn: <u>Charlie Ramirez, Chief Financial Officer</u>
Phone: (610) 373-7999 x1383 Fax: (610) 374-4288	Phone: 951-565-5156 Fax: 951-565-5157

Wire Transfer or ACH Numbers (if applicable):

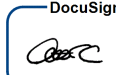
BANK: <u>The Bank of New York Mellon, Pittsburgh, PA</u>	BANK: <u>Wells Fargo Government Service Division</u>
ABA: <u>043000261</u>	ABA: <u>121000248</u>
ACCT: 016-7425	ACCT: <u>4159382548</u>
Other Details:	Other Details: <u>Riverside Transit Agency</u>

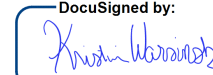
This Base Contract incorporates by reference for all purposes the General Terms and Conditions for Retail Sale and Purchase of Natural Gas or Electricity published by the North American Energy Standards Board. The parties hereby agree to the following provisions offered in said General Terms and Conditions.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

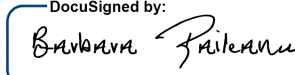
Section 1.2 <input checked="" type="checkbox"/> Written (default) Transaction <input type="checkbox"/> Oral Procedure	Section 7.3 <input checked="" type="checkbox"/> Other agreement setoffs apply (default) Other agreement <input type="checkbox"/> Other agreement setoffs do not apply set-offs
Section 2.6 <input checked="" type="checkbox"/> 2 Business Days after receipt (default) Confirm <input type="checkbox"/> Five (5) Business Days after receipt Deadline	Section 9 <input checked="" type="checkbox"/> Customer Pays At and After Delivery Taxes <input type="checkbox"/> Point (default) <input type="checkbox"/> Supplier Pays Before and At Delivery Point
Section 2.7 <input checked="" type="checkbox"/> Supplier (default) Confirming <input type="checkbox"/> Customer Party	Section 12.2 <input checked="" type="checkbox"/> Confidentiality applies (default) Confidentiality <input type="checkbox"/> Confidentiality does not apply
Section 3.2 <input checked="" type="checkbox"/> Cover Standard (default) Performance <input type="checkbox"/> Spot Price Standard Obligation Note: The following Spot Price Publication applies to both of the immediately preceding. Spot Price Publication	Section 12.4 <input type="checkbox"/> Alternate Dispute Resolution Alternate Dispute <input checked="" type="checkbox"/> No Alternate Dispute Resolution Resolution (default)
Section 7.1 <input checked="" type="checkbox"/> Early Termination Damages Apply Early (default) Termination <input type="checkbox"/> Early Termination Damages Do Not Damages Apply	Section 12.6 Choice of Law <u>California</u>
<input type="checkbox"/> Special Provisions Number of sheets attached: X Addendum(a):	

Base Contract for Retail Sale and Purchase of Natural Gas or Electricity

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

GHI Energy, LLC
Supplier Name
DocuSigned by:
By  5FE3A5206B66445...
Name: Anthony Cox
Title: Vice President

Riverside Transit Agency
Customer Name
DocuSigned by:
By  00003D6B1C01498...
Name: Kristin Warsinski
Title: Chief Executive Officer

DocuSigned by:
By  A6ADB43006024C1...
Name: Barbara Raileanu
Title: RTA General Counsel

Base Contract for Retail Sale and Purchase of Natural Gas or Electricity**GENERAL TERMS AND CONDITIONS****SECTION 1. PURPOSE AND PROCEDURES**

1.1 These General Terms and Conditions are intended to facilitate retail purchase and sale transactions of either Gas or Electricity that will result in physical delivery thereof. The entire agreement between the parties shall be the Contract as defined in Section 2.8.

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

Written Transaction Procedure:

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

Oral Transaction Procedure:

1.2. The parties will use the following Transaction Confirmation procedure. Any purchase and sale transaction may be effectuated in a UET transmission or telephone conversation. The parties agree that Confirming Party shall, and the other party may, confirm a telephonic transaction by sending the other party a Transaction Confirmation by facsimile, UET or mutually agreeable electronic means within three Business Days of a transaction covered by this Section 1.2 (Oral Transaction Procedure). Confirming Party adopts its confirming letterhead, or the like, as its signature on any Transaction Confirmation as the identification and authentication of Confirming Party. If the Transaction Confirmation contains any provisions other than those relating to the commercial terms of the transaction (i.e., price, quantity, performance obligation, Delivery Point, period of delivery and/or transportation/transmission conditions), which modify or supplement the Base Contract or General Terms and Conditions of this Contract (e.g., arbitration or additional representations and warranties), such provisions shall not be deemed to be accepted pursuant to Section 1.3 but must be expressly agreed to by both parties; provided that the foregoing shall not invalidate any transaction agreed to by the parties.

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

1.4 The parties agree that each party may electronically record all telephone conversations with respect to this Contract between their respective employees, without any special or further notice to the other party. Each party shall obtain any necessary consent of its agents and employees to such recording. Where the parties have selected the Oral Transaction Procedure in Section 1.2 of the Base Contract, the parties agree not to contest the validity or enforceability of telephonic recordings entered into in accordance with the requirements of this Base Contract.

Base Contract for Retail Sale and Purchase of Natural Gas or Electricity**SECTION 2. DEFINITIONS**

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

- 2.1 “Account”** means, for each Facility, each account at such Facility to be included in a Transaction Confirmation and identified by a specific account designation number.
- 2.2 “Addendum”** means each supplement to this Contract mutually agreed in writing by the parties.
- 2.3 “Affiliate”** means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, “control” of any entity or person means ownership of at least 50 percent of the voting power of the entity or person.
- 2.4 “Base Contract”** means a contract executed by the parties that incorporates these General Terms and Conditions by reference; that specifies the agreed selections of provisions contained herein; and that sets forth other information required on the Base Contract and includes Special Provisions and Addendum(s), if any, as identified on the Base Contract..
- 2.5 “Business Day”** is as defined in the Governing Documents.
- 2.6 “Confirm Deadline”** means 5:00 p.m. in the receiving party’s time zone on the second Business Day following the Day a Transaction Confirmation is received or, if applicable, on the Business Day agreed to by the parties in the Base Contract; provided, if the Transaction Confirmation is time stamped after 5:00 p.m. in the receiving party’s time zone, it shall be deemed received at the opening of the next Business Day.
- 2.7 “Confirming Party”** means the party designated in the Base Contract to prepare and forward Transaction Confirmations to the other party.
- 2.8 “Contract”** means the legally-binding relationship established by the Base Contract and (i) any and all binding Transaction Confirmations or (ii) the Oral Transaction Procedure in Section 1.2 of the Base Contract, all of which shall form a single integrated agreement between the parties.
- 2.9 “Contract Quantity”** means the quantity of Gas or Electricity estimated to be delivered and taken as agreed to by the parties in a transaction.
- 2.10 “Coordination Services”** means services that permit the interface and coordination between Electricity generation or Gas Suppliers and Distribution Companies in connection with the delivery of Electricity or Gas to serve Customers located within the Distribution Company’s service or control area, including certain scheduling-related functions and reconciliation.
- 2.11 “Cover Standard”**, as referred to in Section 3.2, means that if there is an unexcused failure to take or deliver any of the Contract Quantity pursuant to this Contract, then the performing party shall use commercially reasonable efforts to (i) if Customer is the performing party, obtain Gas or Electricity, (or an alternate energy source if elected by Customer and replacement Gas or Electricity is not available) or (ii) if Supplier is the performing party, sell Gas or Electricity, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with: the amount of notice provided by the nonperforming party; the immediacy of the Customer’s Gas or Electricity consumption needs or Supplier’s Gas or Electricity sales requirements, as applicable; the quantities involved; and the anticipated length of failure by the nonperforming party.
- 2.12 “Credit Support Obligation(s)”** shall mean any obligation(s) to provide or establish credit support for, or on behalf of, a party to this Contract such as cash, an irrevocable standby letter of credit, a margin agreement, a prepayment, a security interest in an asset, guaranty, or other good and sufficient security of a continuing nature.
- 2.13 “Customer”** means any entity that takes gas and/or electric service for its own consumption.
- 2.14 “Day”** means a period of 24 consecutive hours, coextensive with a “day” as defined by the Receiving Distribution Company or Distribution Company in a particular transaction.
- 2.15 “Delivery Period”** shall be the period from the service start month/year to the service end month/year during which deliveries are to be made as agreed to by the parties in a Transaction Confirmation, consistent with Section 4.2.

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- 2.16 “Delivery Point(s)”** shall mean such point(s) as are agreed to by the parties in a Transaction Confirmation.
- 2.17 “Distribution Company”** means a regulated entity which provides distribution services and may provide energy and/or transmission/transportation services in a given area.
- 2.18 “Distribution Company Charges”** means all appropriate regulated Distribution Company costs, charges, and fees for Coordination Services, as defined by the applicable Distribution Company’s Tariff, billed by the Distribution Company to the Account(s).
- 2.19 “Distribution Company Operational Manuals”** means documents prepared and published by Distribution Companies that describe, in detail, the operating processes/procedures used to perform retail access functions.
- 2.20 “Distribution Company Tariff”** means the applicable state retail Gas or Electricity tariff setting forth the basic requirements for interactions and coordination between Distribution Companies and retail Suppliers necessary for ensuring the delivery of competitive Gas or Electricity from such Suppliers to their retail Customers.
- 2.21 “Electricity”** means electric energy and the related products and services that are identified in Transaction Confirmations.
- 2.22 “Event of Default”** shall be a material breach of this Contract and as otherwise defined in Special Provisions to this Contract.
- 2.23 “Facility(ies)”** means Customer’s physical properties or other business assets, including for example stores, restaurants, offices or other places of business, that will be the consumers of Gas or Electricity as specified in Transaction Confirmations under this Contract.
- 2.24 “Firm”** means that either party may interrupt its performance without liability only to the extent that such performance is prevented by Force Majeure (as defined in Section 8) or any type of curtailment ordered by the Distribution Company or ISO.
- 2.25 “Floating Price”** means the price or a factor of the price agreed to in the transaction as being based upon a specified index. For the purposes of the calculation of a replacement price for the Floating Price, all numbers shall be rounded to three decimal places. If the fourth decimal number is five or greater, then the third decimal number shall be increased by one, and if the fourth decimal number is less than five, then the third decimal number shall remain unchanged.
- 2.26 “Gas”** means any combination of hydrocarbons and noncombustible gases in a gaseous state, primarily consisting of methane, and the related products and services that are identified in Transaction Confirmations.
- 2.27 “Governing Documents”** means documents that determine the interactions among parties, including but not limited to: regulatory documents (e.g., tariffs, rules, regulations), contractual agreements, and Distribution Company Operational Manuals.
- 2.28 “Governmental Authority”** means any federal, state, local, municipal or other government, any governmental, regulatory or administrative agency, commission or other authority lawfully exercising or entitled to exercise jurisdiction over the parties or any transaction contemplated herein.
- 2.29 “Imbalance Charges”** means any fees, penalties, costs or charges (in cash or in kind) assessed by the Distribution Company or the ISO for failure to satisfy balancing or nominations requirements at any Delivery Point.
- 2.30 “Interruptible”** means that either party may interrupt its performance at any time for any reason, whether or not caused by an event of Force Majeure (as defined in Section 8), with no liability.
- 2.31 “ISO”** means any independent system operator, regional transmission operator, “transco,” power pool or grid or control area operator established and providing services to the Accounts or other similar entity providing the same basic services as such entities and any successor thereto.
- 2.32 “Kilowatt”** means 1000 watts of Electricity.
- 2.33 “kWh” (kilowatt-hour)** means 1000 watt-hours of Electricity.
- 2.34 “Market Disruption Event”** means, with respect to an index specified for a transaction, any of the following events: (a) the failure of the index to announce or publish information necessary for determining the Floating Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading on the exchange.

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or market acting as the index; (c) the temporary or permanent discontinuance or unavailability of the index; (d) the temporary or permanent closing of any exchange acting as the index; or (e) both parties agree that a material change in the formula for or the method of determining the Floating Price has occurred.

- 2.35 “MMBtu”** means one million British thermal units, which is equivalent to one dekatherm.
- 2.36 “Month”** means the period beginning on the first Day of the calendar month and ending immediately prior to the commencement of the first Day of the next calendar month.
- 2.37 “Off-Peak Hours”** means those hours or other periods defined by contract or other agreements or guides as periods of lower electrical demand.
- 2.38 “On-Peak Hours”** means those hours or other periods defined by contract or other agreements or guides as periods of higher electrical demand.
- 2.39 “Receiving Distribution Company”** means the Distribution Company receiving Gas or Electricity at a Delivery Point, or absent such receiving Distribution Company, the Distribution Company delivering Gas or Electricity at a Delivery Point.
- 2.40 “Spot Price”**, as referred to in Section 3.2, means the price agreed upon by the parties in the Base Contract or in a Transaction Confirmation.
- 2.41 “Supplier”** means persons engaged in the competitive sale of energy to end-users.
- 2.42 “Transaction Confirmation”** means a document, similar to the form of Exhibit A, setting forth the terms of a transaction formed pursuant to Section 1 for a particular Delivery Period.
- 2.43 “UET”** (Uniform Electronic Transaction) means standard data arrangements for trading information, making business requests and exchanging other information, encompassing a number of electronic media and utilizing specified transport protocols.

Principles of Interpretation. Unless the context requires otherwise, any reference herein to any document means such document and all schedules, exhibits, and attachments thereto as amended and in effect from time to time. Unless otherwise stated, any reference herein to any person shall include its permitted successors and assigns and, in the case of any Governmental Authority, any person succeeding to its functions and capacities. The words "hereof," "herein" and "hereunder" and words of similar import when used herein shall, unless otherwise expressly specified, refer hereto as a whole and not to any particular provision hereof. The singular shall include the plural and the masculine shall include the feminine and neuter. Whenever the term "including" is used herein in connection with a listing of items included within a prior reference, such listing shall be interpreted to be illustrative only, and shall not be interpreted as a limitation on or exclusive listing of the items included within the prior reference.

SECTION 3. PERFORMANCE OBLIGATION

- 3.1** In each Month, Supplier agrees to sell and deliver or cause to be delivered, and Customer agrees to take delivery of and purchase, the quantity for a particular transaction for the Facility(ies) as specified in each Transaction Confirmation in accordance with the terms of this Contract. Sales and purchases will be on a Firm or Interruptible basis, as agreed by the parties in a Transaction Confirmation.
- 3.2** To the extent the Contract Quantity is not supplied by Supplier or delivery not taken by Customer, the nonperforming party shall satisfy the terms of this Contract financially in accordance with the following options. Customer shall continue to receive and pay for Distribution Company delivery service.

<p>The parties have selected either the “Cover Standard” or the “Spot Price Standard” as indicated on the Base Contract.</p>

<p>Cover Standard:</p>

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The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas or Electricity shall be recovery of the following: (i) in the event of a breach by Supplier on any Day(s), payment by Supplier to Customer in an amount equal to the positive difference, if any, between the purchase price paid by Customer utilizing the Cover Standard and the Contract Price, multiplied by the difference between the Contract Quantity and the quantity actually delivered by Supplier for such Day(s) excluding any quantity for which no replacement is available; or (ii) in the event of a breach by Customer on any Day(s), payment by Customer to Supplier in the amount equal to the positive difference, if any, between the Contract Price and the price received by Supplier utilizing the Cover Standard for the resale of such Gas or Electricity, adjusted for commercially reasonable differences in transmission or transportation costs to or from the Delivery Point(s), multiplied by the difference between the Contract Quantity and the quantity actually taken by Customer for such Day(s) excluding any quantity for which no sale is available; and (iii) in the event that Customer has used commercially reasonable efforts to replace the Gas or Electricity or Supplier has used commercially reasonable efforts to sell the Gas or Electricity to a third party, and no such replacement or sale is available for all or any portion of the Contract Quantity, then in addition to (i) or (ii) above, as applicable, the sole and exclusive remedy of the performing party with respect to the Gas or Electricity not replaced or sold shall be an amount equal to any unfavorable difference between the Contract Price and the Spot Price, adjusted for such transmission or transportation to the applicable Delivery Point, multiplied by the quantity of such Gas or Electricity not replaced or sold. Imbalance Charges shall not be recovered under this Section, but Supplier and/or Customer shall be

responsible for Imbalance Charges, if any, as provided in Section 4.4. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

Spot Price Standard:

The sole and exclusive remedy of the parties in the event of a breach of a Firm obligation to deliver or receive Gas or Electricity shall be recovery of the following: (i) in the event of a breach by Supplier on any Day(s), payment by Supplier to Customer in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Supplier and received by Customer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the Contract Price from the Spot Price; or (ii) in the event of a breach by Customer on any Day(s), payment by Customer to Supplier in an amount equal to the difference between the Contract Quantity and the actual quantity delivered by Supplier and received by Customer for such Day(s), multiplied by the positive difference, if any, obtained by subtracting the applicable Spot Price from the Contract Price. Imbalance Charges shall not be recovered under this Section, but Supplier and/or Customer shall be responsible for Imbalance Charges, if any, as provided in Section 4.4. The amount of such unfavorable difference shall be payable five Business Days after presentation of the performing party's invoice, which shall set forth the basis upon which such amount was calculated.

SECTION 4. PARTICULARS OF SERVICE

- 4.1** Each transaction shall be effectuated in accordance with the procedures specified in Section 1 of the Base Contract. The terms of a transaction shall be as agreed to by the parties in a Transaction Confirmation and include the type of services to be supplied and the basis for those services, whether Firm or Interruptible. Each Transaction Confirmation shall also include (i) identification of Customer Accounts, Facilities and meters, (ii) term, (iii) Contract Price and related provisions, and (iv) other special terms and conditions, if any.
- 4.2** The parties agree that the Distribution Company determines when the Customer will be switched to Supplier for its Gas or Electricity supply, and that such switch will occur in accordance with the Distribution Company's rules and practices regarding the switching of Customers to Suppliers. Therefore, Supplier shall begin delivery of Gas or Electricity to Customer on the date the Distribution Company switches the Customer to Supplier. With respect to each transaction, Supplier will use commercially reasonable efforts to cause each Distribution Company to take whatever steps are necessary to allow Supplier to begin providing service hereunder at the beginning of each transaction.

- 4.3** The parties acknowledge and agree that this Contract contemplates the purchase and sale of Gas or Electricity to meet Customer's consumption attributable to Customer's Accounts specified in the Transaction Confirmation. The parties shall agree to use commercially reasonable efforts to avoid imposition of any Imbalance Charges.
- 4.4** Customer shall promptly notify Supplier of, and fully comply with, all Distribution Company curtailment or interruption orders or similar notices received by Customer from Distribution Company requiring the interruption or curtailment of Customer's Gas or Electricity usage at any Account and pay any and all Imbalance Charges imposed upon or incurred by either party as a result of Customer's failure to so comply.
- 4.5** Subject to Section 8, Supplier will be responsible for all services necessary for the procurement and delivery of Gas or Electricity to the Delivery Point; including transportation; nomination; confirmations; scheduling; transmission and ancillary services; imbalance services, and; arrangement of billing services for all charges and notices related to Customer's usage of Gas or Electricity consistent with options agreed to by the parties in the Base Contract and in the Transaction Confirmation. Customer acknowledges that Supplier is not responsible for delivery by Distribution Company from the Delivery Point to Facilities. In addition, Supplier must satisfy all obligations imposed by the Distribution Company for the Gas or Electricity at and before the Delivery Point.
- 4.6** If Supplier lacks adequate information to perform its duties under this Contract, Supplier shall immediately provide Customer with formal notice of such information that it deems necessary to enable Supplier to perform such duties, and Customer shall supply such reasonably requested information.

SECTION 5. AUDIT

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

SECTION 6. WARRANTY AND INDEMNITY

- 6.1** All Gas delivered by Supplier shall meet the pressure, quality and heat content requirements of the Receiving Distribution Company at and before the Delivery Point. All Electricity delivered by Supplier shall meet the applicable quality requirements of the Distribution Company and ISO at and before the Delivery Point.
- 6.2** EXCEPT AS PROVIDED IN HEREIN, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE, ARE DISCLAIMED.
- 6.3** Supplier agrees to indemnify Customer and save it harmless from all losses, liabilities or claims including reasonable attorneys' fees and costs of court ("Claims"), from any and all persons, arising from or out of claims of title, personal injury (including death) or property damage from said Gas or Electricity or other charges thereon that attach at or before Delivery Point. Customer agrees to indemnify Supplier and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury (including death) or property damage from said Gas or Electricity or other charges thereon that attach after Delivery Point.

SECTION 7. DEFAULTS AND REMEDIES

- 7.1** If an Event of Default has occurred and is continuing, the non-defaulting party shall have the right, by Notice to the defaulting party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date, in accordance with the Distribution Company's rules and practices (the

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“Early Termination Date”) for the liquidation and termination of all transactions under the Contract, each a “Terminated Transaction”. On the Early Termination Date, all transactions will terminate, other than those transactions, if any, that may not be liquidated and terminated under applicable law (“Excluded Transactions”), which Excluded Transactions must be liquidated and terminated as soon thereafter as is legally permissible, and upon termination shall be a Terminated Transaction and damages shall be calculated consistent with Section 7.2 below. With respect to each Excluded Transaction, its termination date shall be deemed to be the Early Termination Date for purposes of Section 7.

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

Early Termination Damages Apply:

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 under the Contract (including without limitation any amounts owed under Section 3.2), for which payment has not yet been made by the party that owes such payment under this Contract and (ii) the Market Value, as defined below, of each Terminated Transaction. The nondefaulting party shall (x) liquidate and accelerate each Terminated Transaction at its Market Value, so that each amount equal to the difference between such Market Value and the Contract Value, as defined below, of such Terminated Transaction(s) shall be due to the Customer under the Terminated Transaction(s) if such Market Value exceeds the Contract Value and to the Supplier if the opposite is the case; and (y) where appropriate, discount each amount then due under clause (x) above to present value in a commercially reasonable manner as of the Early Termination Date (to take account of the period between the date of liquidation and the date on which such amount would have otherwise been due pursuant to the relevant Terminated Transactions).

For purposes of this Section, “Contract Value” means the amount of Gas or Electricity remaining to be delivered or purchased under a transaction multiplied by the Contract Price, and “Market Value” means the amount of Gas or Electricity remaining to be delivered or purchased under a transaction multiplied by the market price for a similar transaction at the Delivery Point determined by the non-defaulting party in a commercially reasonable manner. To ascertain the Market Value, the non-defaulting party may consider, among other valuations, any or all of the settlement prices of NYMEX Gas or Electricity futures contracts, quotations from leading dealers in energy swap contracts or physical Gas or Electricity trading markets, similar sales or purchases and any other bona fide third-party offers, all

adjusted for the length of the term and differences in transmission costs and volume transportation costs. A party shall not be required to enter into a replacement transaction(s) in order to determine the Market Value. Any extension(s) of the term of a transaction to which parties are not bound as of the Early Termination Date (including but not limited to “evergreen provisions”) shall not be considered in determining Contract Values and Market Values. For the avoidance of doubt, any option pursuant to which one party has the right to extend the term of a transaction shall be considered in determining Contract Values and Market Values. The rate of interest used in calculating net present value shall be determined by the non-defaulting party in a commercially reasonable manner.

Early Termination Damages Do Not Apply:

As of the Early Termination Date, the non-defaulting party shall determine, in good faith and in a commercially reasonable manner, the amount owed (whether or not then due) by each party under the Contract for all Gas or Electricity delivered and received between the parties under Terminated Transactions and Excluded Transactions on and before the Early Termination Date and all other applicable charges related to such delivery and receipt (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.

7.2 The parties agree that each transaction hereunder constitutes a "forward contract" within the meaning of the United States Bankruptcy Code and that Customer and Supplier are each "forward contract merchants" within the meaning of the United States Bankruptcy Code.

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

Other Agreement Setoffs Apply:

7.3 The non-defaulting party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 7.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the defaulting party, the non-defaulting party is hereby authorized to setoff any Net Settlement Amount against (i) any margin or other collateral held by a party in connection with any Credit Support Obligation relating to the Contract; and (ii) any amount(s) (including any excess cash margin or excess cash collateral) owed or held by the party that is entitled to the Net Settlement Amount under any other agreement or arrangement between the parties.

Other Agreement Setoffs Do Not Apply:

7.3 The non-defaulting party shall net or aggregate, as appropriate, any and all amounts owing between the parties under Section 7.1, so that all such amounts are netted or aggregated to a single liquidated amount payable by one party to the other (the "Net Settlement Amount"). At its sole option and without prior Notice to the defaulting party, the non-defaulting party may setoff any Net Settlement Amount against any margin or other collateral held by it in connection with any Credit Support Obligation relating to the Contract.

- 7.4** If any obligation that is to be included in any netting, aggregation or setoff pursuant to Section 7.3 is unascertained, the non-defaulting party may in good faith estimate that obligation and net, aggregate or setoff, as applicable, in respect of the estimate, subject to the non-defaulting party accounting to the defaulting party when the obligation is ascertained. Any amount not then due which is included in any netting, aggregation or setoff pursuant to Section 7.3 shall be discounted to net present value in a commercially reasonable manner determined by the non-defaulting party.
- 7.5** As soon as practicable after a liquidation, notice shall be given by the non-defaulting party to the defaulting party of the Net Settlement Amount and whether the Net Settlement Amount is due to or due from the non-defaulting party. The notice shall include a written statement explaining in reasonable detail the calculation of the Net Settlement Amount, provided that failure to give such notice shall not affect the validity or enforceability of the liquidation or give rise to any claim by the defaulting party against the non-defaulting party. The Net Settlement Amount, as well as any setoffs applied against such amount pursuant to Section 7.3, shall be paid by the close of business on the second Business Day following such notice, which date shall not be earlier than the Early Termination Date. Interest on any unpaid portion of the Net Settlement Amount shall accrue from the date due until the date of payment at a rate equal to the lower of (i) unless otherwise agreed, the then-effective prime rate of interest published under "Money Rates" by The Wall Street Journal, plus two percent per annum; or (ii) the maximum applicable lawful interest rate.
- 7.6** With respect to this Section 7, if the parties have executed a separate netting agreement with close-out netting provisions, the terms and conditions therein shall prevail to the extent inconsistent herewith.

SECTION 8. FORCE MAJEURE

- 8.1** Except with regard to a party's obligation to make payment(s) due hereunder, neither party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension and that could not have been prevented by the exercise of reasonable diligence, as further defined below.
- 8.2** Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings (such as hurricanes) which result in evacuation of the affected area, floods, washouts, explosions, breakage or accident or necessity of repairs to machinery or equipment or lines of pipe; (ii) weather related events affecting an entire geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transmission, transportation and/or storage; (iv) acts of others such as strikes, lockouts or other industrial disturbances, riots, sabotage, insurrections, wars, or acts of terror; and (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation, or policy having the effect of law promulgated by a Governmental Authority. Supplier and Customer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance.

- 8.3** Neither party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is affected by any or all of the following circumstances: (i) the curtailment of Interruptible or secondary Firm transportation or transmission unless primary, in-path, Firm transmission or transportation is also curtailed; (ii) the party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; or (iii) economic hardship, to include, without limitation, Supplier's ability to sell Gas or Electricity at a higher or more advantageous price than the Contract Price, Customer's ability to purchase Gas or Electricity at a lower or more advantageous price than the Contract Price, or a Governmental Authority disallowing, in whole or in part, the pass through of costs resulting from this Contract; (iv) Customer's inability to use Gas or Electricity purchased hereunder, except, in either case, as provided in Section 8; or (v) the loss or failure of Supplier's Gas or Electricity supply or depletion of reserves, except, in either case, as provided in Section 8. The party claiming Force Majeure shall not be excused from its responsibility for Imbalance Charges.
- 8.4** Notwithstanding anything to the contrary herein, the parties agree that the settlement of strikes, lockouts or other industrial disturbances shall be within the sole discretion of the party experiencing such disturbance.
- 8.5** The party whose performance is prevented by Force Majeure must provide Notice (as defined in Section 11.1) to the other party. Initial Notice may be given orally; however, written Notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written Notice of Force Majeure to the other party, the affected party will be relieved of its obligation, from the onset of the Force Majeure event, to make or accept delivery of Gas or Electricity, as applicable, to the extent and for the duration of Force Majeure, and neither party shall be deemed to have failed in such obligations to the other during such occurrence or event.
- 8.6** Notwithstanding this Section, the parties may agree to alternative Force Majeure provisions in a Transaction Confirmation executed in writing by both parties.

SECTION 9. TAXES

The parties have selected either "Customer Pays At and After Delivery Point" or "Supplier Pays Before and At Delivery Point" as indicated on the Base Contract. The parties agree to take all lawful actions to minimize taxes imposed on transactions hereunder.

Customer Pays At and After Delivery Point:

9.1 Supplier shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any Government Authority ("Taxes") on or with respect to the Gas or Electricity prior to the Delivery Point(s) and excluding those Taxes that may not be legally passed through. Customer shall pay or cause to be paid all Taxes on or with respect to the Gas or Electricity at and after the Delivery Point(s).

Supplier Pays Before and At Delivery Point:

9.1 Supplier shall pay or cause to be paid all taxes, fees, levies, penalties, licenses or charges imposed by any Government Authority ("Taxes") on or with respect to the Gas or Electricity prior to and at the Delivery Point(s) and excluding those Taxes that may not be legally passed through. Customer shall pay or cause to be paid all Taxes on or with respect to the Gas or Electricity after the Delivery Point(s).

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- 9.2 If a party is required to remit or pay Taxes that are the other party's responsibility hereunder, the party responsible for such Taxes shall promptly reimburse the other party for such Taxes. Customer shall pay or cause to be paid any increase in applicable Taxes occurring after the commencement of deliveries under transactions between the Parties. Any party entitled to an exemption from any such Taxes or charges shall furnish the other party any necessary documentation thereof. Customer shall be liable for Taxes and associated interest or penalties assessed against Supplier due to Customer's failure to provide or to complete any such certificate or other necessary documentation in a timely and proper fashion.

SECTION 10. LIMITATIONS OF REMEDIES, LIABILITY AND DAMAGES

FOR BREACH OF ANY PROVISION FOR WHICH AN EXPRESS REMEDY OR MEASURE OF DAMAGES IS PROVIDED, SUCH EXPRESS REMEDY OR MEASURE OF DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY. A PARTY'S LIABILITY HEREUNDER SHALL BE LIMITED AS SET FORTH IN SUCH PROVISION, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. IF NO REMEDY OR MEASURE OF DAMAGES IS EXPRESSLY PROVIDED HEREIN OR IN A TRANSACTION, A PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT ACTUAL DAMAGES ONLY. SUCH DIRECT ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. UNLESS EXPRESSLY HEREIN PROVIDED, NEITHER PARTY SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT, UNDER ANY INDEMNITY PROVISION OR OTHERWISE. IT IS THE INTENT OF THE PARTIES THAT THE LIMITATIONS HEREIN IMPOSED ON REMEDIES AND THE MEASURE OF DAMAGES BE WITHOUT REGARD TO THE CAUSE OR CAUSES RELATED THERETO, INCLUDING THE NEGLIGENCE OF ANY PARTY, WHETHER SUCH NEGLIGENCE BE SOLE, JOINT OR CONCURRENT, OR ACTIVE OR PASSIVE. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. NEITHER PARTY IS LIABLE OR RESPONSIBLE FOR ANY INJURY, LOSS, CLAIM, EXPENSE, LIABILITY OR DAMAGE RESULTING FROM ANY INTERRUPTION, SHORTAGE, INSUFFICIENCY OF OR FAILURE OF THE DISTRIBUTION COMPANY TO DELIVER GAS OR ELECTRICITY SCHEDULED BY SUPPLIER.

SECTION 11. NOTICES

- 11.1 All Transaction Confirmations, invoices, payment instructions and other communications made pursuant to the Base Contract ("Notices") shall be made to the addresses specified in writing by the respective parties from time to time.
- 11.2 All Notices required hereunder shall be in writing and may be sent by facsimile or mutually acceptable electronic means, a nationally recognized overnight courier service, first class mail or hand delivered.
- 11.3 Notice shall be given when received on a Business Day by the addressee. In the absence of proof of the actual receipt date, the following presumptions will apply. Notices sent by facsimile shall be deemed to have been received upon the sending party's receipt of its facsimile machine's confirmation of successful communication. If the Day on which such facsimile is received is not a Business Day or is after five p.m. on a Business Day, then such facsimile shall be deemed to have been received on the next following Business Day. Notice by overnight mail or courier shall be deemed to have been received on the next Business Day after it was sent or such earlier time as is confirmed by the receiving party. Notice via first class mail shall be considered delivered five Business Days after mailing.
- 11.4 The party receiving a commercially acceptable Notice of change in payment instructions or other payment information shall not be obligated to implement such change until ten Business Days after receipt of such Notice.

Base Contract for Retail Sale and Purchase of Natural Gas or Electricity**SECTION 12. MISCELLANEOUS**

- 12.1** Each party to this Contract represents and warrants that it has full and complete authority to enter into and perform this Contract. Each person who executes this Contract on behalf of either party represents and warrants that it has full and complete authority to do so and that such party will be bound thereby.
- 12.2** Unless the parties have elected on the Base Contract not to make this Section applicable to this Contract, neither party shall disclose directly or indirectly without the prior written consent of the other party the terms of any transaction to a third party (other than the employees, lenders, royalty owners, counsel, accountants and other agents of the party, or prospective purchasers of all or substantially all of a party's assets or of any rights under this Contract, provided such persons shall have agreed to keep such terms confidential) except (i) in order to comply with any applicable law, order, regulation, or exchange rule, (ii) to the extent necessary for the enforcement of this Contract, (iii) to the extent necessary to implement any transaction, or (iv) to the extent necessary to comply with a Governmental Authority's reporting requirements including but not limited to Gas or Electricity cost recovery proceedings; or (v) to the extent such information is delivered to such third party for the sole purpose of calculating a published index. Each party shall notify the other party of any proceeding of which it is aware which may result in disclosure of the terms of any transaction (other than as permitted hereunder) and use reasonable efforts to prevent or limit the disclosure. The existence of this Contract is not subject to this confidentiality obligation. Notwithstanding Section 10, the parties shall be entitled to all remedies available at law or in equity to enforce, or seek relief in connection with this confidentiality obligation. The terms of any transaction hereunder shall be kept confidential by the parties hereto for one year from the expiration of the transaction.
- 12.3** In the event disclosure is required by a Governmental Authority or applicable law, the party subject to such requirement shall use commercially reasonable efforts to obtain protective orders or similar restraints with respect to such disclosure at the expense of the other party and subject to such efforts may disclose the material terms of this Contract to the extent so required, but shall promptly notify the other party, prior to disclosure, and shall cooperate (consistent with the disclosing party's legal obligations) with the other party.
- 12.4** The parties may agree to dispute resolution procedures in Special Provisions attached to the Base Contract or in a Transaction Confirmation executed in writing by both parties.
- 12.5** No assignment of this Contract, in whole or in part, will be made without the prior written consent of the nonassigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed; provided, either party may, without the prior approval of the other party, (i) transfer, sell, pledge, encumber, or assign this Contract or the accounts, revenues, or proceeds hereof in connection with any financing or other financial arrangements, or (ii) transfer its interest to any Affiliate by assignment, merger or otherwise so long as the Affiliate meets any creditworthiness requirements under this Contract. Upon any such assignment, transfer and assumption, the assigning party or transferor, as applicable, shall remain principally liable for and shall not be relieved of or discharged from any obligations hereunder.
- 12.6** The interpretation and performance of this Contract shall be governed by the laws of the jurisdiction as indicated on the Base Contract, excluding, however, any conflict of laws rule which would apply the law of another jurisdiction.
- 12.7** No waiver of any breach of this Contract shall be held to be a waiver of any other or subsequent breach.
- 12.8** The requirements and provisions of this Contract shall not be construed as creating an association, trust, partnership, or joint venture, or as imposing a trust or partnership duty, obligation, or liability on either party, or as creating any relationship between the parties other than that of independent contractors for the sale and purchase of Gas or Electricity.
- 12.9** This Contract sets forth all understandings between the parties respecting each transaction subject hereto, and any prior contracts, understandings and representations, whether oral or written, relating to such transactions are merged into and superseded by this Contract and any effective transaction(s). This Contract may be amended only by a writing executed by both parties.
- 12.10** If any provision in this Contract is determined to be invalid, void or unenforceable by any court having jurisdiction, such determination shall not invalidate, void, or make unenforceable any other provision, agreement or covenant of

Base Contract for Retail Sale and Purchase of Natural Gas or Electricity

this Contract, and the parties agree to attempt to implement an equitable adjustment in the provisions of this Contract with a view toward effecting the purposes of this Contract by replacing the provision that is invalid, void or unenforceable with a valid provision the economic effect of which comes as close as possible to that of the provision that has been found to be invalid, void or unenforceable.

- 12.11** The headings and subheadings contained in this Contract are used solely for convenience and do not constitute a part of this Contract between the parties and shall not be used to construe or interpret the provisions of this Contract.
- 12.12** The confidentiality provisions, indemnities, releases from liability, limitations on liability or damages and dispute resolution provisions expressed in this Contract shall, unless otherwise provided herein, survive without limitation the termination, cancellation or expiration of this Contract, and shall apply whether in contract, equity, tort or otherwise.
- 12.13** Any original executed Base Contract, Transaction Confirmation or other related document may be digitally copied, photocopied, or stored on computer tapes and disks (the "Imaged Agreement"). The Imaged Agreement, if introduced as evidence on paper, the Transaction Confirmation, if introduced as evidence in automated facsimile form, the recording, if introduced as evidence in its original form, and all computer records of the foregoing, if introduced as evidence in printed format, in any judicial, arbitration, mediation or administrative proceedings will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither Party shall object to the admissibility of the recording, the Transaction Confirmation, or the Imaged Agreement on the basis that such were not originated or maintained in documentary form. However, nothing herein shall be construed as a waiver of any other objection to the admissibility of such evidence.
- 12.14** If a Market Disruption Event has occurred then the parties shall negotiate in good faith to agree on a replacement price for the Floating Price (or on a method for determining a replacement price for the Floating Price) for the affected Day, and if the parties have not so agreed on or before the second Business Day following the affected Day then the replacement price for the Floating Price shall be determined within the next two following Business Days with each party obtaining, in good faith and from non-affiliated market participants in the relevant market, two quotes for prices of Gas or Electricity, as applicable, for the affected Day of a similar quality and quantity in the geographical location closest in proximity to the Delivery Point and averaging the four quotes. If either party fails to provide two quotes then the average of the other party's two quotes shall determine the replacement price for the Floating Price.
- 12.15** This contract may be terminated upon 30 Days written Notice, but shall remain in effect until the expiration of the latest Delivery Period of any Transaction Confirmation(s).

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

**Addendum
to
Base Contract for Retail Sale and Purchase of Natural Gas or Electricity
Between
GHI Energy, LLC (“Supplier”)
and
Riverside Transit Agency (“Customer”)**

This Addendum is attached to and made a part of that certain Base Contract for Sale and Purchase of Natural Gas or Electricity (the “Contract”) dated November 28, 2023, between Supplier and Customer. To the extent the terms and provisions of this Addendum conflict with the Contract, the terms and provisions of this Addendum shall prevail.

In Section 1.2 delete the word “UET” in the second sentence

In Section 1.3 delete the word “UET” in the first sentence. Also, the following sentence shall be deleted entirely from Section 1.3: “The failure of the receiving party to so notify the sending party in writing by the Confirm Deadline constitutes the receiving party’s agreement to the terms of the transaction described in the sending party’s Transaction Confirmation.”

Delete Section 1.4 of the General Terms and Conditions in its entirety.

Delete the word “material” from Section 2.22.

Delete Section 2.43 in its entirety

Section 3.2 is amended by deleting the sentence “Customer shall continue to receive and pay for Distribution Company delivery service and replace it with the following:

“Notwithstanding any financial settlement contemplated herein, Customer may, at its own discretion and expense, choose to receive replacement commodity and delivery service from the Distribution Company.”

Insert the following at the end of Section 4.4:

Customer shall promptly notify Supplier of any known circumstances or conditions, other than variations in weather, that may cause significant or abrupt changes in Gas or Electric usage at its facilities, and Customer agrees to reimburse Supplier for any and all Imbalance Charges that result from Customer’s failure to provide such notification.

Change the heading of Article V to read “BILLING, PAYMENT AND AUDIT”

Add the following as Section 5.1:

5.1 During the term of this Base Contract, Supplier shall bill Customer on a monthly basis based on the prior Month's delivery of natural gas. The monthly billing periods shall be approximately 30 days in duration and shall correspond to the billing periods established by the Receiving Distribution Company. All amounts due hereunder shall be paid within 10 days of the date of receipt of the invoice. Customer shall pay **UGI Energy Services, LLC** by wire transfer to the following Bank Account: PNC Bank, National Association, Philadelphia, PA, Account # 8606074246, ABA #031000053, or by check to **UGI Energy Services, LLC**, P.O. Box 827032, Philadelphia, PA 19182-7032. Any unpaid amounts shall accrue interest from the due date at the rate that is the lesser of one percent (1%) per month or the maximum lawful rate. Upon 5 days prior written notice to Customer Supplier may curtail deliveries if an amount due is not received from Customer when due. Deliveries may not be curtailed and interest may not be accrued where Customer provides written evidence of a good faith billing dispute and pays the undisputed amount.

Renumber the existing paragraph in Section 5 as Section 5.2

The following shall be added to Section 6: "Supplier warrants the title to the gas or electricity delivered pursuant to the terms of this Contract and warrants that it has the right and lawful authority to sell the same."

Amend Section 7.1 in its entirety to read as follows:

7.1 In the event (each an "Event of Default") either party (the "Defaulting Party") shall: (i) make an assignment or any general arrangement for the benefit of creditors; (ii) file a petition or otherwise commence, authorize, or acquiesce in the commencement of a proceeding or case under any bankruptcy or similar law for the protection of creditors or have such petition filed or proceeding commenced against it; (iii) be unable to pay its debts as they fall due; (iiv) have a receiver, provisional liquidator, conservator, custodian, trustee or other similar official appointed with respect to it or substantially all of its assets; (v) not have paid any amount due the other party hereunder on or before the second Business Day following written Notice that such payment is due; (vi) fail to perform any material obligation under the Contract (other than obligations which are specifically covered in this definition as a separate Event of Default), if not remedied within five (5) Business Days after receiving Notice thereof; or (vii) Solely with respect to Customer, fail to provide credit assurance on a timely basis, in accordance with Section 5.2 hereof; then the non-defaulting party shall have the right, by Notice to the defaulting party, to designate a Day, no earlier than the Day such Notice is given and no later than 20 Days after such Notice is given, as an early termination date, in accordance with the Distribution Company's rules and practices (the "Early Termination Date") for the liquidation and termination of all transactions under the Contract, each a "Terminated Transaction". On the

Early Termination Date, all transactions will terminate, other than those transactions, if any, that may not be liquidated and terminated under applicable law (“Excluded Transactions”), which Excluded Transactions must be liquidated and terminated as soon thereafter as is legally permissible, and upon termination shall be a Terminated Transaction and damages shall be calculated consistent with Section 7.2 below. With respect to each Excluded Transaction, its termination date shall be deemed to be the actual termination date allowed under applicable law, for purposes of Section 7.

Delete Section 12.3 in its entirety and replace as follows:

In the event that either party is requested or required by law (by deposition, interrogatory, request for documents, subpoena, civil investigative demand, duly filed public information request or any law, rule, regulation or order promulgated from time to time by any governmental agency) to disclose any confidential information, such party will promptly notify the other so that party may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement. Each party will cooperate with the other's efforts to obtain a protective order.

Amend Section 12.5 to read as follows:

This Contract shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, and heirs of the respective parties hereto, and the covenants, conditions, rights and obligations of this Contract shall run for the full term of this Contract. No assignment of this Contract, in whole or in part, will be made without the prior written consent of the non-assigning party (and shall not relieve the assigning party from liability hereunder), which consent will not be unreasonably withheld or delayed; provided that Supplier may, upon notice to Customer, transfer, sell, pledge, encumber or assign this Contract or the accounts, revenues or proceeds hereof in connection with any financing or other financial arrangements, and either party may, upon notice to the other party (i) transfer or assign this Contract to an affiliate, or (ii) transfer or assign this Contract to any person or entity succeeding to all or substantially all of the assets of such party, so long as the creditworthiness of the entity taking assignment is comparable to or higher than that of such assigning party.

The term “the recording” shall be deleted in every instance in Section 12.13.

Amend Section 12.15 to read as follows:


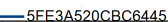



This Contract may be terminated on 60 Day’s written Notice, but shall remain in effect until the expiration of the latest Delivery Period of any transaction(s). In the absence of agreement regarding pricing for any extension of service beyond the term specified in the most recent Transaction Confirmation, Gas or Electricity

delivered for Customer's account shall be billed at current market prices at the Point(s) of Delivery.

Except as otherwise modified herein, the terms and conditions of the Contract shall remain as is.


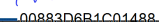

ACCEPTED AND AGREED AS OF THE DATES LISTED BELOW:

GHI Energy, LLC
("Supplier")

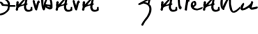
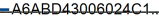



DocuSigned by:
By:    
Its: 
Anthony Cox, Vice President

Date: 11/28/2023

Riverside Transit Agency
("Customer")

DocuSigned by:
By:    
Its: 
Kristin Warsinski, Chief Executive Officer

Date: 11/29/2023

DocuSigned by:
By:    
Its: 
Barbara Raileanu, General Counsel
11/28/2023
Date: _____

TRANSACTION CONFIRMATION FOR IMMEDIATE DELIVERY

Letterhead/Logo



Date: November 28, 2023
Transaction Confirmation #: SCG0050-001

This Transaction Confirmation is subject to the Contract Agreement No. S23103F dated November 28, 2023 ("RTA Contract Agreement"), and the NAESB Base Contract and Addendum between Supplier and Customer dated November 28, 2023. Capitalized terms used in this Transaction Agreement and not otherwise defined herein shall have the meaning contained in the Base Contract. In the case of conflict between this Transaction Agreement and the RTA Contract Agreement No. S23103F, the RTA Contract Agreement shall govern.

SUPPLIER:

GHI Energy, LLC
835 Knitting Mills Way
Wyomissing, PA 19610

Attn: John Cook
Phone: 610-373-7999 x1383
Fax:
Base Contract No.: SCG0050

CPUC Registration #: CTA0017

CUSTOMER:

Riverside Transit Agency
1825 Third Street
Riverside, CA 92507

Attn: Charlie Ramirez
Phone: (951) 565-5156
Fax: (951) 565-5157
Base Contract No.: SCG0050

Distribution Company:
As listed in Appendix A

Distribution Company Contract Number:
As listed in Appendix A

Commodity: Electricity ☐ Natural Gas ☒

Character of Service: Firm Sharing of credit revenue for Environmental Attributes. Supplier will designate Customer's Fueling Stations as the Delivery Points for the delivery of RNG for Vehicle Use and pay Customer a percentage share of the revenue generated from the Environmental Attributes for the RNG consumed by Customer for Vehicle Use, based on Customer's verification of the quantity of RNG delivered to its Stations that was utilized for Vehicle Use.

On the Effective Date, Customer will receive its physical supply of Gas from Receiving Distribution Company. Supplier and Customer may agree during the Delivery Period to the purchase and sale of Gas to replace the sales from Customer/s Receiving Distribution Company and will amend this Transaction Confirmation to reflect the agreed terms of any future RNG sale.

Delivery Period:

On or around January 1, 2024, through December 31, 2026.

**TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY**

Supplier and Customer agree that the timing of the exact start date is ultimately dependent on the actions of the Receiving Distribution Company.

Customer shall have the unilateral option to extend the delivery period at the same terms for two discrete one-year periods beginning on January 1, 2027, and January 1, 2028, respectively, provided that Customer provides written notice to supplier of its intent to extend by September 30 of each year.

Billing and Payment Information:

As defined below.

Performance Obligation and Contract Quantity:

As defined below.

Delivery Point:

Downstream of Utility's meter at the Fueling Station(s) listed in Appendix A to this Transaction Confirmation.

Facility/Account Information:

Customer's Compressed Natural Gas Fueling Stations listed in Appendix A to this Transaction Confirmation (respectively, the "Fueling Station(s)"). Parties may add additional Fueling Stations at any time pursuant to an amendment to Appendix A (which shall also be "Fueling Station(s)").

Special Conditions:

1. ADDITIONAL DEFINITIONS

- 1.1. "Base Contract" means the Base Contract defined on the cover page of this Transaction Confirmation.
- 1.2. "CARB" means California Air Resources Board.
- 1.3. "Compressed Natural Gas" or "CNG" means Gas that has been compressed to a standard pressure for the purpose of fueling a motor vehicle.
- 1.4. "Contract" means collectively this Transaction Confirmation, the RTA Contract Agreement and the Base Contract and Addendum referenced on the cover page thereof.
- 1.5. "Cover Standard", as defined in the Base Contract, is expanded to also include the value of any payments for LCFS or RINS credits, as stipulated below.
- 1.6. "Effective Date" means the first date that this Agreement becomes effective, as specified in Section 3 below.

TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY

- 1.7. "Environmental Attributes" means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the production, delivery and use of RNG to be transported to Customer, including verified emission reductions, voluntary emission reductions, offsets, and any other credits, allowances, or emission rights or authorizations under any Law, or any emission reduction or tracking registry, trading system, or reporting or reduction program for greenhouse Gas emissions that is established, certified, maintained, or recognized by any international, governmental, or non-governmental agency. Additionally, Environmental Attributes means any and all credits, certificates, claims, benefits, reporting, marketing rights, identifiers, or transferable, tradable, or monetizable environmental instruments or commodities (voluntary or compliance), beneficial CI, or any other indicia of environmental protection or improvement, howsoever entitled, attributable directly or indirectly to the production and delivery of RNG by Supplier to Customer for vehicle use or otherwise. Environmental Attributes may be generated, originated, issued, allocated, distributed, granted, approved, recognized, created, or arise generally in the present or future through international, federal, state, regional, or local law, legislation, regulation, program or agreement or through voluntary standard, protocol, certification, methodology, or attestation, and shall include renewable energy certificates, renewable energy credits, renewable thermal certificates, clean energy certificates, clean energy credits, green tags, generation information system certificates, LCFS Credits, or RINs.
- 1.8. "Fueling Stations" means locations owned by Customer where Customer fuels vehicles with Compressed Natural Gas and designated to receive Gas under this Contract.
- 1.9. "LCFS" means Low Carbon Fuel Standard.
- 1.10. "LCFS Credits" means emissions credits created under the LCFS Regulation and marketable according to rules set by CARB.
- 1.11. "LCFS Regulation" means the regulations defined under title 17, California Code of Regulations (CCR), sections 95480-95503, or any additions thereto, collectively with other referenced material therein.
- 1.12. "MMBtu" means one million British thermal units as defined in the Receiving Distribution Company's Tariff and used as a unit of measurement of quantities of natural Gas.
- 1.13. "Receipt" means Gas that enters the Receiving Distribution Company's transmission system.
- 1.14. "Receiving Distribution Company" means the Distribution Company defined on the cover page of this Transaction Confirmation.
- 1.15. "Renewable Natural Gas" or "RNG" means natural Gas, with certain Environmental Attributes attached, from a renewable or biogenic resource that is identical to conventional fossil natural Gas and has been injected into a common carrier pipeline for delivery to end-users.
- 1.16. "RFS Regulations" means the regulations, orders, decrees and standards issued by a governmental authority implementing, or applicable to, the United States Federal Renewable Fuel Standard Program (40 CFR Part 80 Subpart M), and each successor regulation, as may be subsequently amended, modified or restated from time to time.
- 1.17. "RIN" means a Renewable Identification Number under the RFS Regulations.

**TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY**

- 1.18. "SoCalGas" means the Southern California Gas Company.
- 1.19. "Tariff" means the regulatory documents filed by the Receiving Distribution Company with applicable regulatory bodies and governing its transmission system.
- 1.20. "Therm" means 0.1 MMBtu of energy, or approximately 100 scf of Gas, as defined in the Receiving Distribution Company's Tariff.
- 1.21. "Vehicle Use" means the dispensing and use of RNG in vehicles that: (i) causes the retirement or consumption of all associated Environmental Attributes, with the exception of RINs, and other Environmental Attributes arising from such dispensing and use; and (ii) gives rise to the ability to generate or be issued RINs and other Environmental Attributes arising from such dispensing and use.

2. NATURE OF SERVICE

- 2.1. Supplier shall deliver Environmental Attributes to Customer's Fueling Station(s) in return for payments addressed herein, and Customer shall provide Supplier with rights to LCFS Credits created under the LCFS Regulation. In accordance with the terms of Section 7 of this Transaction Confirmation, all LCFS Credits created at the Fueling Station(s) shall be the sole property of Supplier, and Supplier shall compensate Customer for the value of those credits, but at no time shall this Contract be construed as a purchase or sale of LCFS Credits from Fueling Station(s).
- 2.1.1.1. Irrespective of the entity delivering gas to Customer, Supplier shall make best efforts to meet Customer's RNG requirements through the delivery of Environmental Attributes to Customer's Fueling Station(s). The volume of Environmental Attributes to be delivered to Customer shall be approximately equal to 250,000 per year, the equivalent of Gas consumption of 2,500,000 Therms annually.
- 2.1.1.2. Customer agrees that Gas delivered to the Fueling Station(s) will be for use as CNG as a Vehicle Fuel only and will be used for no other purposes.
- 2.2. Customer acknowledges that this Contract covers only the Environmental Attributes associated with Gas commodity delivered to Customer and consumed thereby and that Customer shall continue to be responsible for any and all metering and transmission charges and fees charged and billed separately by Receiving Distribution Company. Customer further acknowledges that this Contract may be suspended or terminated by Supplier at any time upon written notice to Customer if Customer fails to maintain its responsibility to and pay all charges and fees owing to Receiving Distribution Company.

3. TERM OF AGREEMENT

- 3.1. This Transaction Confirmation shall commence and become effective as of the dates of the signatures below (the "Effective Date") and continue thereafter through the end of the Delivery Period, as defined on the cover page to this Transaction Confirmation and as set forth in RTA Contract Agreement No. S23103F, Article 3, Term of Agreement."

4. CONVERSION OF CONTRACT

**TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY**

- 4.1. Supplier and Customer agree to work together from time to time to monitor and evaluate market prices for Gas delivered in future periods for the purpose of Customer procuring Gas at the lowest available price. Should Supplier and Customer agree to the purchase and sale of Gas over a defined term, Parties shall amend this Transaction Confirmation to reflect the terms of their agreement.
- 4.2. Customer agrees to notify Supplier in writing of its intent to convert the Gas to be delivered under this Contract to GHI, at least 60 business days prior to the beginning of any particular month in which Customer wishes to convert.

5. BILLING AND PAYMENT FOR GAS DELIVERED BY GHI

- 5.1. Within 10 days of the last day of each delivery month, Supplier shall bill Customer for all Gas delivered to Customer during the preceding month based on the aggregate Gas meter readings at the Fueling Stations. Bills shall be rounded to two decimal points and will include the charges for Gas delivered to Customer, based on Customer's measured monthly usage of Gas plus all applicable taxes and other governmental fees and assessments that may be associated therewith, if any, that Supplier may be required to collect. Customer shall be solely responsible for all such additional taxes and governmental fees and assessments.
- 5.2. Supplier and Customer agree to work together to minimize and simplify the billing process to the extent feasible and, if applicable, to implement an electronic billing and payment arrangement, if possible.
- 5.3. Bills for service are due and payable upon presentation and will be considered past due if payment is not received within 15 days after the bill is issued by Supplier. If Customer fails to pay any amounts within thirty (30) days after payment is due, unless Customer has timely submitted a written dispute of an invoice or portion thereof, as further detailed in the RTA Contract Agreement, Supplier, in addition to any other remedy it may have under this Contract or at law, may suspend further delivery of Gas until such amount is paid in full.
- 5.4. Payments shall be made by Customer to Supplier by wire transfer or ACH transfer, payable to the account listed in in the invoice.

6. BILLING AND PAYMENT FOR GAS DELIVERED BY RECEIVING DISTRIBUTION COMPANY

- 6.1. The billing and payment terms for Gas delivered to Customer by the Receiving Distribution Company shall be governed by the contract and Tariff of the Receiving Distribution Company and shall not be the responsibility of Supplier.
 - 6.1.1.1. Supplier shall, should it be requested by Customer, provide consulting services to Customer on SoCalGas billing and payment requirements.

7. DELEGATION OF REGULATORY STATUS

- 7.1. As required under the LCFS Regulation, Customer agrees and attests to the following:
 - 7.1.1. Customer owns free and clear the CNG fueling equipment at the Fueling Station(s) and meter(s) listed in Appendix A (under the heading "Customer Owned Stations") or is otherwise responsible for procuring Gas for the Fueling Station(s) listed in Appendix A (under the heading "Other Fueling Stations for Which Customer is Responsible for Procuring Natural Gas") and as such has the capacity to contract for 3rd party of supply of Gas; and
 - 7.1.2. No other party has an ownership interest in Customer's CNG fueling equipment at the Fueling Station(s) listed in Appendix A (under the heading "Customer Owned Stations") or otherwise has a claim to the regulated party status for the Fueling Station(s) in Appendix A (under the heading "Other Fueling Stations for Which Customer is Responsible for Procuring Natural Gas") as defined in the LCSF Regulation; and

TRANSACTION CONFIRMATION FOR IMMEDIATE DELIVERY

- 7.1.3. Customer shall continue to own for the term of this Transaction Confirmation free and clear any and all present and future CNG fueling equipment for which Supplier, or SoCalGas, is providing Gas under this Contract; and
- 7.1.4. Supplier is designated as the "Gas provider" of Customer, as described by the LCFS Regulation, and Supplier is therefore eligible to assume Customer's LCFS compliance obligation, thus becoming the officially recognized regulated party for the Fueling Station(s) and the fueling equipment located therein, and may exercise any and all rights of the regulated party; and
- 7.1.5. Customer agrees that Supplier shall register Customer's Fueling Stations for participation in the RFS Regulations at no further cost or obligation to Customer; and
- 7.1.6. Customer has affirmatively elected to discontinue its participation as a regulated party in the LCFS program and Customer is currently not participating in the RFS Regulations, nor is otherwise generating RIN's thereunder through its Fueling Station(s), and Customer has affirmatively elected not to so in the future except in connection with the activities contemplated herein with Supplier; and
- 7.1.7. Customer understands and agrees that the elections in Section 7.1.6 are irrevocable for the duration of this Contract; and
- 7.1.8. As a consequence of the election in subparagraph 7.1.6, Customer understands and agrees that all LCFS Credits and RIN's generated from the sale of CNG dispensed through Customer's Gas vehicle fueling equipment while this Contract is in effect shall be the sole property of Supplier as of the date of creation, and that Customer shall have no right to these credits or any compensation therefor except as otherwise specified in this Contract.

8. ALLOCATION OF HEAVY DUTY AND LIGHT DUTY VEHICLE USE

- 8.1. At the Effective Date, and on the last day of each calendar quarter following the Effective Date, in accordance with the requirements of Section 95484(c) of the LCFS Regulation, Customer may, at customers sole option report to Supplier the of its Gas consumption allocated to light duty vehicles (14,000 pounds or less gross vehicle weight)(referred to herein as "Therms_{LD}") that utilized the Fueling Station(s) during the period (respectively, the "LD Consumption"), whether by the use of designated separate meters for each vehicle class or through some other method designed to calculate such an allocation, and this information will be used to calculate the number of LCFS Credits earned at the Fueling Station(s) and the payment for such LCFS Credits owed to Customer. Should Customer choose not to report LD Consumption, all therms consumed at the fueling station shall be assumed to be Heavy Duty only (referred to herein as "Therms_{HD}").

9. CALCULATION OF LCFS CREDITS EARNED EACH MONTH

- 9.1. In accordance with Section 11 of this Contract, Supplier shall compensate Customer for a fossil-equivalent volume of credits created at the Fueling Station(s) each month, using the guidance provided in Sections 95485 and 95488.5(e) for credits created from the latest *Compressed Natural Gas from Pipeline Average North American Fossil Natural Gas* pathway, included within the LCFS Regulation by reference, and summarized in the Table 1 below.
- 9.2. Customer shall provide to Supplier, via email or facsimile, at the close of business on the last business day of each week in which CNG was consumed, with a written record of its weekly natural Gas consumption (a "meter reading") from each Gas metering or other measurement device used to dispense natural Gas for CNG fueling purposes at the Fueling Stations.
 - 9.2.1. Should any of Customer's metering devices be self-reporting "smart meters" or otherwise able to automatically provide remote metering data without a physical manual reading, Customer shall be

**TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY**

exempt from this requirement so long as Supplier (or Supplier's designee) is able to receive and use such consumption data for reporting purposes.

- 9.3. For all monthly billing periods in each year in Table 1, the formula for determining the LCFS Credits created at the Fueling Station(s) shall be as follows, rounded to 6 decimal points, where "FRate" refers to fossil-equivalent natural Gas credits having a CI of 79.21 and "RRate" refers to renewable natural Gas credits having a CI of -250:

$$\text{Credits}_{\text{LCFS}} = 100\% \times [(\text{FRate}_{\text{HD}} \times \text{Therms}_{\text{HD}}) + (\text{FRate}_{\text{LD}} \times \text{Therms}_{\text{LD}})] + \text{Share}\% \times [((\text{RRate}_{\text{HD}} - \text{FRate}_{\text{HD}}) \times \text{Therms}_{\text{HD}}) + ((\text{RRate}_{\text{LD}} - \text{FRate}_{\text{LD}}) \times \text{Therms}_{\text{LD}})]$$

TABLE 1:

Baseline "Fossil Equivalent" LCFS Credit Rates

per Therm of Gas delivered based on a Carbon Intensity of 79.21gCO₂e/MJ

Year	FRate_{HD}	FRate_{LD}
2024	0.000000	0.000743
2025	0.000000	0.000625
2026	0.000000	0.000506
2027	0.000000	0.000388
2028	0.000000	0.000270

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TABLE 2:

RNG LCFS Credit Rates

per Therm of Gas delivered based on a Carbon Intensity of -250.0 gCO₂e/MJ

Year	RRate_{HD}	RRate_{LD}
2024	0.031342	0.032106
2025	0.031128	0.031988
2026	0.030912	0.031869
2027	0.030697	0.031750
2028	0.030481	0.031632

9.3.1.Except for those circumstances outlined in Section 9.3.2 below, Share% shall be equal to 17%.

9.3.2.If during any portion of any respective delivery period Supplier is notified by its own suppliers of RNG that a *force majeure* situation is in effect that affects the availability of RNG, Share% shall be equal to 17% times the actual percentage of Gas delivered to Customer that was RNG during the time when the *force majeure* was in effect.

9.4. Customer and Supplier agree that the credit creation rates for future years are subject to CARB's pending publication carbon reduction targets and shall be calculated using the same methodology and added to this agreement by amendment once such targets are available.

10. DETERMINATION OF LCFS CREDIT PRICE

10.1. In accordance with Section 11 of this Transaction Confirmation, the monthly price for LCFS Credits shall be determined using a simple average, calculated across the entire month, of a daily published index or market assessment for "spot" or "current year" California LCFS Credits, denominated in \$/MT, published by the Oil Price Information Service ("OPIS").

11. QUARTERLY PAYMENTS FOR LCFS CREDITS

TRANSACTION CONFIRMATION FOR IMMEDIATE DELIVERY

- 11.1. Using the results of the calculations in Sections 9 and 10, above, for each respective month, Supplier shall pay to Customer an amount equal to the monthly quantity of LCFS Credits multiplied by 100% of the average monthly market LCFS credit price (the "LCFS Calculation"), rounded to two decimal points.
- 11.2. The LCFS Calculation shall be performed on a monthly basis using monthly data and paid within 100 days following the end of the subsequent calendar quarter, following Supplier's quarterly LCFS regulatory filing.
- 11.3. Parties agree that:
- 11.3.1. Supplier's payment for LCFS Credits shall be separate and distinct from Customer's payment for Gas; and
 - 11.3.2. Supplier shall not be required to make any payments for LCFS Credits unless and until Customer's account is current and Customer has paid Supplier for all Gas delivered during the quarter for which payment for the LCFS Credits is due plus all prior Delivery Months preceding that quarter.
 - 11.3.3. The payments made under this Section, the credits created in Section 9, and the price determined in Section 10, are purely formulaic and have no connection whatsoever to any specific or actual quantity of credits created, any specific or actual transaction for LCFS credits, or any other tangible or recordable data or thing aside from the number of therms consumed and the formulas listed in this Transaction Confirmation.
 - 11.3.4. Customer shall have no interest whatsoever, whether economic or otherwise, in any actual or tangible LCFS transaction executed by Supplier or in any credits owned by Supplier as the result of this Transaction Confirmation. All LCFS credits created by Supplier using Gas provided to Customer shall remain the sole property of Supplier and shall not in any way be attached to the quarterly LCFS payments owed to Customer under this Transaction Confirmation. Accordingly, Customer shall have no rights to audit or inspect Supplier's underlying LCFS credit transactions aside from the calculations specified in this Transaction Confirmation for the formulaic payment owed herein.
- 11.4. Payments shall be made by Supplier to Customer by wire transfer, payable to the following account:
- BANK: Wells Fargo Government Service Division
ABA: 121000248
ACCT: 4159382548
Other Details: Riverside Transit Agency

12. MONTHLY PAYMENTS FOR RIN'S

- 12.1. Within 30 days following the end of each month, Supplier shall compensate Customer in an amount equal to a percentage share of the value of a theoretical quantity of RIN's (the "RIN Sharing Percentage") based on the volumes of fuel dispensed at the Fueling Station(s) according to the following formula:

$$PAYMENT_{RIN's} = THERMS_{MONTH} \times 1.172 \times PRICE_{MONTH} \times RIN \text{ SHARING}\%$$

Where

THERMS_{MONTH} = The total number of therms consumed in a month
1.172 = the number of RIN's per therm of Gas consumed
PRICE_{MONTH} = The monthly average RIN price
RIN SHARING% = The RIN Sharing Percentage

- 12.2. The RIN price in Section 12.1 shall be the daily price for "D3 Cellulosic Biofuel" RIN's, denominated in \$/RIN, published by OPIS.

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12.2.1. Except for those circumstances outlined in Section 12.2.2 below, RIN SHARING% shall be equal to 17%.

12.2.2. If during any portion of any respective delivery period Supplier is notified by its own suppliers of RNG that a *force majeure* situation is in effect that affects the availability of RNG, RIN SHARING% shall be equal to 17% times the actual percentage of Gas delivered to Customer that was RNG during the time when the *force majeure* was in effect.

12.3. Regardless of the source of Gas provided in any given month, Seller shall be obligated to make this payment each month. Supplier may cease making this payment only in the case of termination of the federal Renewable Fuel Standard or a material modification therein to the treatment of biogas used as CNG.

12.3.1. If during any portion of any respective delivery period Supplier is notified by its own suppliers of RNG that a *force majeure* situation is in effect that affects the availability of RNG, Share% shall be equal to 17% times the actual percentage of Gas delivered to Customer that was RNG during the time when the *force majeure* was in effect.

12.4. Customer shall have no interest whatsoever, whether economic or otherwise, in any actual or tangible RIN transaction executed by Supplier or in any credits owned by Supplier as the result of this Transaction Confirmation. All RIN credits created by Supplier using Gas provided to Customer shall remain the sole property of Supplier and shall not in any way be attached to the monthly RIN payments owed to Customer under this Transaction Confirmation. Accordingly, Customer shall have no rights to audit or inspect Supplier's underlying RIN credit transactions aside from the calculations specified in this Transaction Confirmation for the formulaic payment owed herein.

12.5. Payments shall be made by Supplier to Customer by wire transfer, payable to the following account:

BANK: Wells Fargo Government Service Division
ABA: 121000248
ACCT: 4159382548
Other Details: Riverside Transit Agency

13. COMMODITY DISCOUNT PAYABLE TO CUSTOMER

13.1. In addition to the LCFS and RIN credits payable to Customer in accordance with Sections 11 and 12 hereof, Supplier shall pay to Customer a Commodity Discount of \$0.008 per Therm for Gas consumed by Customer for Vehicle Use each month, based on the meter read information Customer provides pursuant to Section 9.2. Payments shall be made by Supplier to Customer on a quarterly basis, by wire transfer to the account designated in Section 12.5:

14. TERMINATION

14.1. If, at any time during the term of this Transaction Confirmation, Supplier, in its sole discretion, determines that there is no longer a market for LCFS Credits or that the LCFS Regulation is no longer a viable or functioning regulation, or that, for any other reason, the regulatory environment surrounding the subject matter of this Transaction Confirmation has changed, Supplier may terminate this Transaction Confirmation upon 90 days prior written notice to Customer.

14.1.1. If Supplier elects to terminate under the provisions in Section 14.1 above and Supplier is the Customer's natural gas supplier during the time period that Customer is ineligible to return to utility natural Gas service (i.e. within the first 12 months of the third party procurement on SoCalGas), Supplier shall remain as Customer's natural Gas supplier until such time that customer is eligible to return to utility service or otherwise has commenced receiving natural Gas service from a new third party supplier and Customer price paid for such natural Gas shall revert to 100% of the local utility Procurement Price.

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15. AMENDMENT

15.1. This Transaction Confirmation may be amended upon the mutual written agreement of both Parties and any such written amendment agreement shall be incorporated herein by reference.

Supplier: GHI Energy, LLC

DocuSigned by:

By: 

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Anthony Cox

Title: Vice President

11/28/2023

Date: _____,

DS

PM

Customer: Riverside Transit Agency

DocuSigned by:

By: 

00883D0B1C01408...

Kristin Warsinski

Title: Chief Executive Officer

11/29/2023

Date: _____

DocuSigned by:

By: 

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Barbara Raileanu

Title: General Counsel

11/28/2023

Date: _____

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APPENDIX A

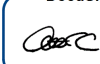
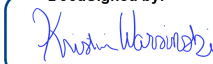
CUSTOMER OWNED FUELING STATIONS

Station ID	Distribution Company	Location Description	Approximate Daily Gas Consumption	Date Added to Base Contract
10697053	Southern California Gas Co.	RTA Maintenance Facility: 1825 Third Street, Riverside, CA	5000 Therms/Day	1/1/2024
N/A	Southern California Gas Co.	RTA Fueling Station: 3205 Durahart Street, Riverside, CA	N/A	1/1/2024
11615915	Southern California Gas Co.	RTA Fueling Station: 700 Scaramella Circle, Hemet, CA	2500 Therms/Day	<u>1/1/2024</u>

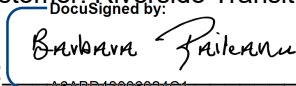
**OTHER FUELING STATIONS FOR WHICH CUSTOMER IS RESPONSIBLE
FOR FUEL PROCUREMENT**

Station ID	Distribution Company	Applicable Market Index	Location Description	Approximate Daily Gas Consumption	Date Added to Base Contract

In witness whereof, this Appendix is agreed to and incorporated into the Contract as of the dates below:

<p>Supplier: GHI Energy, LLC</p> <p>By:  DS FM</p> <p><small>5FE3A520CB66445...</small></p> <p>Anthony Cox</p> <p>Title: Vice President</p> <p>Date: 11/28/2023</p>	<p>Customer: Riverside Transit Agency</p> <p>By: </p> <p><small>00003D6B1C01400...</small></p> <p>Kristin Warsinski</p> <p>Title: Chief Executive Officer</p> <p>Date: 11/29/2023</p>
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TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY

	<p>Customer: Riverside Transit Agency</p> <p>By:  A6ABD43006024C1.... Barbara Raileanu</p> <p>Title: General Counsel</p> <p>Date: 11/28/2023</p>
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