

5A

TOWN OF AURORA

LOCAL LAW 4 - 2015

A LOCAL LAW, TO AMEND LOCAL LAW 1-1990 KNOWN AS “THE CODES OF THE TOWN OF AURORA”, ADOPTED BY THE TOWN BOARD OF THE TOWN OF AURORA ON JANUARY 22, 1990, BY AMENDING THE VETERAN’S EXEMPTION TO PROVIDE AN EXEMPTION FOR COLD WAR VETERANS.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF AURORA AS FOLLOWS:

SECTION 1. LEGISLATIVE INTENT

This Local Law amends a prior Local Law known as “The Codes of the Town of Aurora”, adopted by the Town of Aurora on January 22, 1990, as amended, relating to the administrative, legislative and general legislation of the Codes within the Town of Aurora as herein set forth.

SECTION 2. CHAPTER 101, ARTICLE IV, “COLD WAR VETERANS EXEMPTION”

Chapter 101 is amended by adopting changes to Article IV as set forth herein:

Section 101-12

The purpose of this Article is to provide a veterans exemption of real property taxation allowable pursuant to Section 458-b of the Real Property Tax Law of the State of New York and shall be known as “Cold War Veterans Exemption Local Law”.

Section 101-13

Section 101-13 is added to provide for the following in accordance with Real Property Tax Law Section 458-b:

- A. Qualifying residential real property shall be exempt from taxation to the extent of ten percent (10%) of the assessed value of such property; provided, however, that such exemption shall not exceed eight thousand dollars (\$8,000.00) or the product of eight thousand dollars (\$8,000.00) multiplied by the latest state equalization rate for the Town of Aurora, New York, whichever is less.

- B. In addition to the exemption provided by Paragraph A of this subdivision, where the Cold War Veteran received a compensation rating from the United States Veterans Affairs or from the United States Department of Defense because of service-connected disability, qualifying residential property shall be exempt from taxation to the extent of the product of the assessed valuation of property, multiplied by 50% of the Cold War veteran disability rating; provided, however, that such exemption shall not exceed forty thousand dollars (\$40,000.00) or the product of forty thousand dollars (\$40,000.00) multiplied by the latest equalization rate for the Town of Aurora, New York, whichever is less.

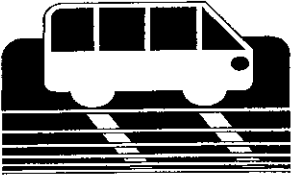
- C. The exemption provided by Paragraph A of this subdivision shall be granted for a period of ten (10) years. The commencement of such ten (10) year period shall be governed by Real Property Tax Law Section 458-b.

SECTION 4. EFFECTIVE DATE This Local Law shall take effect immediately upon filing with the Secretary of State.

5B

Motion to authorize the Supervisor to sign and submit an application to the Erie County Community Development Block Grant (ECCDBG) program for the following project:

1) Continuation of the Rural Transit Service, Inc. program and to authorize the Supervisor to execute contracts for the project upon approval from the ECCDBG.



Rural Transit Service, Inc.

1000 Brant-Farnham Road

P.O. Box 212

Brant, NY 14027

Dispatch Sites:

Brant
549-5098
Clarence
565-3323
Concord
592-0088
Orchard Park
662-8378

Brenda O'Neill
Executive Director

TO ALL TOWN AND VILLAGE OFFICIALS

For all communities that will be continuing the Rural Transit Service program, the following is needed:

1. A copy of the resolution authoring you to sign onto the van program for the 2016-2017 CDBG year.
2. A letter from you by October 16th with your support indicated and a ranking of the van program.

Please mail the following to:

Rural Transit Service, Inc.
PO Box 212
Brant, NY 14027

If you are unable to have the materials ready by this date due to the timing of your Town/Village Meetings please send an email to Brenda@RuralTransitService.org with the date it can be expected.

Thank you for your interest in Rural Transit Service. If you have any questions, please do not hesitate to call (716) 472-6065.

Sincerely,

Brenda O'Neill
Executive Director

www.RuralTransitService.org

This program is funded in part through the Erie County Community Development Block Grant Consortium
In cooperation with the TOWNS of:
AURORA, BOSTON, BRANT, CLARENCE, COLDEN, COLLINS, CONCORD, EDEN, ELMA, EVANS, GOWANDA, HOLLAND,
MARILLA, NEWSTEAD, NORTH COLLINS, ORCHARD PARK, SARDINIA and WALES

October 8, 2015
Bid Opening

5C

1) A bid opening for new exercise equipment for the Aurora Senior Center was held on October 8, 2015 at 10:00 a.m. at the Aurora Town Hall, 300 Gleed Avenue, East Aurora, New York 14052. The notice to bidders was published in the East Aurora Advertiser and the Challenger Community News as evidenced by the affidavits of publication. The notice to bidders was posted on the Town Clerk's bulletin board.

Present: Martha L. Librock, Town Clerk
Sheryl Miller, Deputy Town Clerk

Bids were received from the following and publicly opened at 10:00 a.m.

	BIDDER	AMOUNT BID
1	G&G Fitness 7350 Transit Road Williamsville, NY	\$16,418.15
2	ifitness co. 6221 Transit Road East Amherst, NY	\$17,663.00
3	ifitness co. 6221 Transit Road East Amherst, NY	\$19,283.00

Having received no other bids, the bid opening was declared closed at 10:05 a.m.

Martha L. Librock
Town Clerk

Civil Engineering
Environmental Engineering
Municipal Engineering
Land Surveying



Project Management
Construction Support Services
Landscape Architecture
SWPPP Services

5D

September 21, 2015

Martha Librock
Town Clerk
Town of Aurora
300 Gleed Avenue
East Aurora, NY 14052

Re: Revised Sketch Plan
Aurora Mills Cluster Subdivision
Mill Road, (T) Aurora

Dear Ms. Librock,

In response to comments received from the Town Board at a field meeting held on September 1st, the Sketch Plan for the proposed Aurora Mills Cluster Subdivision has been revised. Please see a list of revisions summarized below:

- The street layout has been pushed to the west side of the project site and preserves a greater "view shed" at the south end of the site
- The entire plan reflects patio home lots on private roads, as such all sidewalks have been eliminated
- There is an increased separation distance from the homes along Mill Rd to the start of lot development within the limits of the project site. Specifically the offset from the home under construction to the rear yard of the closest lot within the development is now 151+/-ft. at its closest point
- With the scope of the project focused entirely on patio homes, the respective trips generated by vehicles during peak traffic hours will be reduced accordingly
- All roads and storm sewers within the development are now private, therefore no added maintenance to be addressed by the Town Highway Department
- The revised plan shows a single access point to Mill Road. The location of the road now minimizes potential disturbance to the residence located across the street from the proposed development, with respect to access into and out of the project site
- Proposed disturbance to the identified wetland area is maintained at 0.02 acres
- The preserved green area is 61%, exceeding the minimum required green area
- Proposed lot count has been maintained at 89 lots
- The separation distance from the Mill Rd access point to the start of proposed lots within the development has been increased from 100-ft to 357+/- ft.

Continued...

Revised Sketch Plan
Aurora Mills Cluster Subdivision
September 21, 2015
Page 2 of 2

Twelve (12) prints of the revised plan are attached for your review and distribution.

At this time we are requesting referral of the modified Aurora Mills Cluster Subdivision plan from the Town Board to the Planning Board, to initiate discussion of the revised layout.

Please contact me with any comments or questions.

Very truly yours,



Patricia Bittar
Sr. Project Manager

Cc: Gary Eckis
Bill Schutt / 15012

SUPERVISOR
JAMES J. BACH
(716) 652-7590
jbach@townofaurora.com



M

GB

townclerk

TOWN OF AURORA
300 Gleed Avenue, East Aurora, NY 14052
www.townofaurora.com

MEMO

TO: Town Board
FROM: Jim Bach
RE: 2016 Preliminary Budget Changes – Dept. of the Supervisor
DATE: 10/22/15

Below are the changes to be made to the 2016 Preliminary Budget regarding the Supervisor's office:

- Delete A 1220.101 Part Time Clerical \$5,000
- Delete A 1220.105 Web Administrator \$2,655
- Add A 1220.102 Assistant to the Supervisor \$38,670
- Decrease A 1220.103 Secretary to the Supervisor \$17,342
- Decrease A 1220.403 Accounting Contractual \$20,000
- Increase A 1220.401 Office Expense \$1,000
- Increase A 1220.404 Expense and Travel \$3,000

Williamson Law Book Company

790 Canning Parkway

Victor, New York 14564

October 15, 2015

60

Town of Aurora
Accounts Payable
300 Gleed Avenue
East Aurora NY 14052

ANNUAL SOFTWARE SUPPORT CONTRACT

Enclosed is an invoice renewing your Software Support coverage for the following program:

Highway Superintendent

This agreement between Williamson Law Book Company (WLB) and the Town of Aurora (referred to as "customer") will provide ongoing software support and maintenance to the customer as described herein.

Williamson Law Book Company (WLB) agrees to provide the customer with:

- Support: WLB will provide support to assist in using the software. Support will be provided by internet, phone or fax during normal business hours.
- Notice of all program enhancements and their benefits.
- All state mandated changes at no extra charge (excluding any training required by the customer).

The customer agrees to:

- Maintain hardware in proper working condition.
- Make continued efforts to work with and properly use WLB software.
- Train new personnel in the event of employee turnover. (Additional training may be purchased from WLB). Charges for the Software Support Contract shall be \$645.00 as specified on the enclosed invoice.

*****Please sign and return one copy of this contract with your payment*****

Thank you.



Williamson Law Book Company

Accepted for the Town of Aurora

By: _____ Title: _____ Date: _____



**Town of Aurora
Department of Parks & Recreation**

300 Gleed Avenue
East Aurora, New York 14052

recreati

GD

To: Town Board
From: Chris Musshafen
Date: 10/14/15
Re: Pool AED

Approval is requested to purchase a new AED with the existing appropriations in the Pool Maintenance line A.7180.426. The current AED we have is no longer under warranty and the battery and electrode pads are no longer manufactured and will expire this year.

Seller	Product	Product Warranty	Battery/Pad Life	Price (in \$)
Cardiac Life	HeartStart	8 years	4/2 years	1,030.95
Cardiac Life	Powerheart G3	7 years	4/2 years	1,385.00
Cardiac Life	Powerheart G5	8 years	4/2 years	1,596.70
Finger Lakes	Heartsine 350P	10 years	4/4 years	1,230.00
GMD	Heartsine 350P	10 years	4/4 years	1,085.00
GMD	Zoll Plus Package	7 years	5/5 years	1,430.50
Heartsmart.com	Zoll AED Plus	7 years	5/2 years	1,375.00

All of the above AEDs will come with a carrying case, adult electrode pads, and pediatric electrode pads. My recommendation is that we purchase the Heartsine 350P AED from General Medical Devices. The Hearsine 350P is inexpensive, has a longer warranty, and the battery and electrode pad life is 4 years.

Application # _____

	Fee	Pair
Application Fee	\$25.	<input checked="" type="checkbox"/>
Permit Fee	\$15.	<input checked="" type="checkbox"/>
Security Deposit	\$200.	<input checked="" type="checkbox"/>
Per Day Event Fee	\$200.	<input type="checkbox"/>

6E

Application For Temporary Use Permit

Neil and Barb Chur Equestrian Park, Soccer Field and/or Polo Field
At Knox Farm State Park

Submit applications to:
Town of Aurora Parks and Recreation
300 Glead Ave
East Aurora, NY 14052
Telephone (716) 652-8866 Fax: (716) 652-5646

All requests must be made no less than 60 days in advance of event/use.

- Name of Organization: MMHSAA
- Individual Responsible for this request: BRIAN KISZEWSKI
- Address: 6820 CLINTON ST
ELMIRA NY 14059
- Telephone number: 716-866 5081
- Fax: _____
- Email Address: MANSCOACHK@AOL.COM
- Date(s) of event: ALL-CATHOLIC CROSS COUNTRY MEET (11/1)
- Hours of use including set up/take down: Start 7:30 (am/pm) End 12:00 (am/pm)
- Description of the event or use:
BOYS + GIRLS CROSS COUNTRY MEET
- Specific area(s) requested, map attached
 Soccer
 Polo Field
 Equestrian Park
 Other: CROSS COUNTRY ROUTE
- Specific equipment to be brought in to park (porta johns, tents, etc.) PORTA JOHNS
TEAM TENTS - COMPUTER
- Need: Water _____ Electric X
- Estimated attendance: 500

14. Will food or drinks be served? No If yes, describe: _____

15. Will there be sound amplification or music or a band(s)? No If yes, describe: _____

16. Other services requested (describe): _____

X Police TO SHOW WHERE TO PARK?

X Parks and Recreation Department ELECTRIC HOOD OP?

(Provide drawings describing location, size and text of all proposed signs for this event to the Town of Aurora Building Department, 5 South Grove St. Approved signs may be erected 30 days prior to the event and must be removed immediately after same.)

I make this application and agree to abide by the Guidelines for Use of Barb and Neil Chur Equestrian Park, Soccer Fields and/or Polo Field


Signature of Applicant

9/24/15
Date

Official Use Only Below this Line-----

Event: _____

Attachments submitted:

X Indemnification Agreement

X Certificate of Insurance

X Map with area(s) requested to be used indicated

X Copy of application for sign permit, if applicable. (Upon application approval, copy of approved sign permit must be filed with the Town Clerk NO LATER THAN 5 days prior to scheduled event.)

Application Recommended or Not recommended
by Department of Parks and Recreation

SUPERVISOR
JOLENE M. JEFFE
(716) 652-7590
jjeffe@townofaurora.com



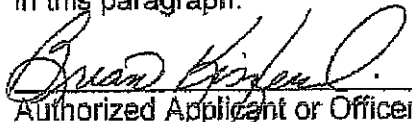
TOWN CLERK
MARTHA L. LIBROCK
(716) 652-3280
townclerk@townofaurora.com

TOWN OF AURORA
300 Glead Ave., East Aurora, NY 14052
www.townofaurora.com

Indemnification Agreement

Neil and Barb Chur Equestrian Park, Soccer Field and/or Polo Field

To the fullest extent permitted by law, I/We shall indemnify and hold harmless the Town of Aurora and its employees from and against claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from performance of our work under this contract, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, including the loss of use resulting there from but only to the extent caused in whole or in part by negligent acts or omissions of our organization, anyone directly or indirectly employed by us or for anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to otherwise exist as to a party or person described in this paragraph.



Authorized Applicant or Officer

State of New York)
County of Erie)

Subscribed and sworn to before me this 24 day of SEPTEMBER, 2015



Notary Public

Qualified in Erie County, New York
My commission expires: 11/24/2018

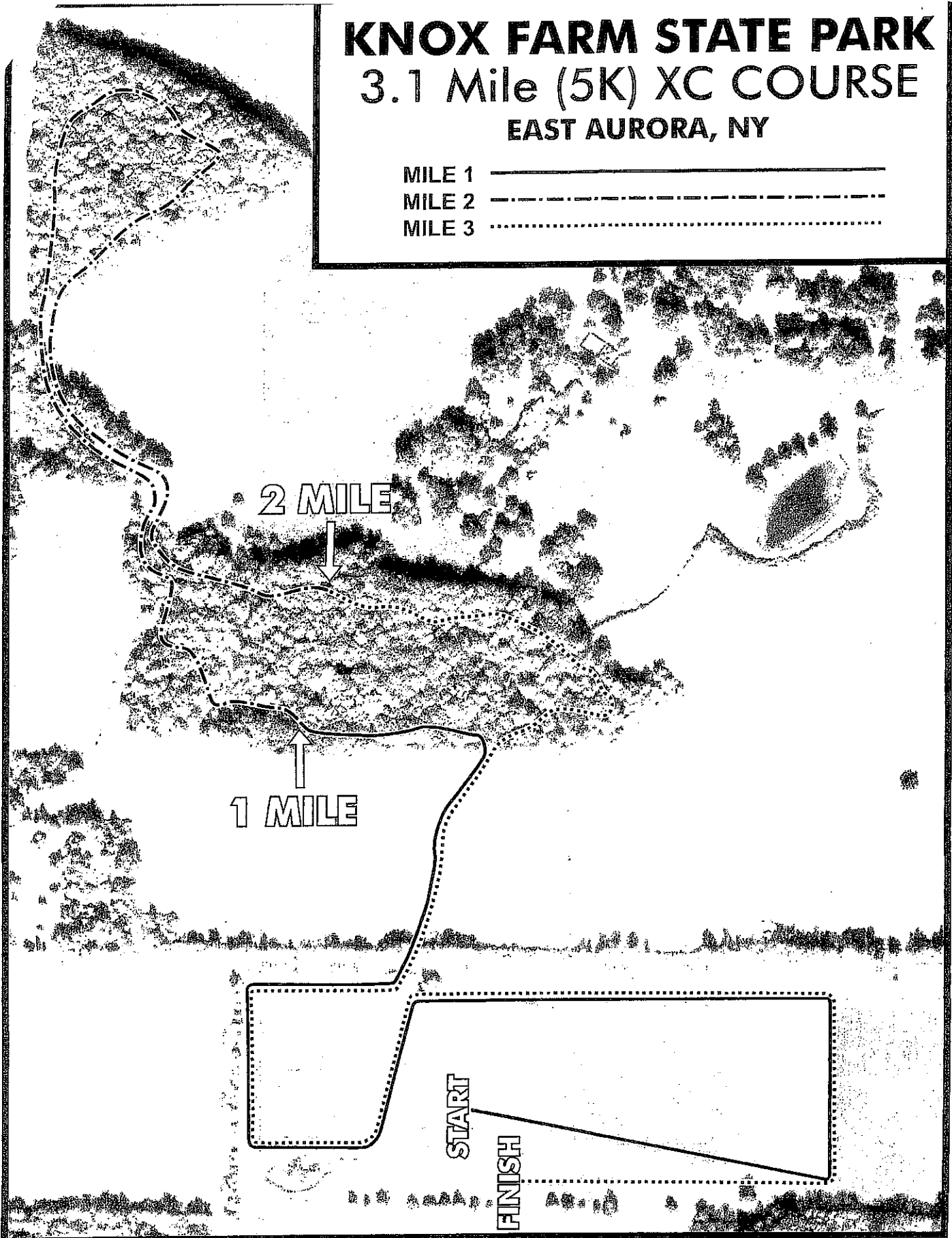
MARY M. JABLONSKI
NOTARY PUBLIC-STATE OF NEW YORK
No. 07JA6315350
Qualified in Erie County
My Commission Expires November 24, 2018

KNOX FARM STATE PARK

3.1 Mile (5K) XC COURSE

EAST AURORA, NY

MILE 1 _____
MILE 2 - - - - -
MILE 3 ······



2 MILE

1 MILE

START

FINISH

SUPERVISOR
JAMES J. BACH
(716) 652-7590
jbach@townofaurora.com



M
townc

66

TOWN OF AURORA
300 Glead Avenue, East Aurora, NY 14052
www.townofaurora.com

MEMO

To: Town Board
From: Kathleen Moffat
Re: Printer Surplus
Date: October 16, 2015

I respectfully request approval to surplus an HP LaserJet P1505 printer, TOA #1995, from the Tax Receiver. It is old and beyond repair, and will be recycled appropriately.

SUPERVISOR
JAMES J. BACH
(716) 652-7590
jbach@townofaurora.com



MARTH
townclerk@t

GH

TOWN OF AURORA
300 Glead Avenue, East Aurora, NY 14052
www.townofaurora.com

MEMO

To: Town Board
From: Kathleen Moffat
Re: GFOA Governmental Accounting School
Date: October 22, 2015

I respectfully request approval to attend the GFOA Governmental Accounting class on Nov. 17, 2015 in Batavia, NY. The member cost is \$150.00 and will be taken from A 1220.404 Expense and Travel (balance of \$2,305).



GFI ADVANCED FORUM
November 17, 2015
(Program subject to change)



GFI ADVANCED FORUM
November 17, 2015
(Program subject to change)



THE GOVERNMENT FINANCE INSTITUTE (GFI) is a two level, progressive program that provides a continuing series of in-depth workshops and sessions both at a Foundations (Basic) and Advanced level. Workshops will be offered annually across the State. Upon completion of each level, Graduates will be formally recognized for their commitment to professional excellence and competence in the field. GFI was designed by some of NYS GFOA's most experienced government finance professionals, and offers a unique opportunity to obtain a well-rounded working knowledge of the functional areas of government finance.

For further information and to enroll in go to www.nysgfoa.org and click on the GFI link.

AGENDA

- 8:30am-9:00am Registration and Continental Breakfast
- 9:00am Advanced Accounting Forum (7.5 CPE)
- Mid-Morning Break
- 12:30pm-1:15pm Networking Lunch
- 1:15pm Forum Continues
- Mid-Afternoon Break
- 4:30pm Forum Concludes

Workshop Instructors:

Laura Landers, CPA, Director, Freed Maxick CPAs, P.C.
Scott Adair, CPA, Chief Financial Officer, RGR Transportation Authority

- Those who successfully complete the Forum should be able to:
- Select the appropriate fund to use to account for a given function or activity.
 - Properly apply specialized public-sector accounting classifications.
 - Make proper capital project accounting entries (especially those pertaining to short and long term debt).
 - Make basic budgetary journal entries and determine when a budgetary comparison is required and at what level of detail.
 - Identify common errors made in Annual Update Document (AUD) submissions to the Office of the State Comptroller.
 - Utilize a Year-End Financial Closing Checklist and Annual Audit Preparation Check

REGISTRATION FORM (Accounting)

NAME _____ ENTITY _____

TITLE _____

ADDRESS _____

PHONE _____ FAX _____

EMAIL _____

GFI ENROLLMENT FEE (One time fee) \$50.00

GFI ADVANCED FORUM:

- Member: \$150.00 Nonmember: \$300.00
- GFI Enrollee/non NYS GFOA member: \$175.00

MEMBERSHIP: RENEW OR JOIN NOW...

- Renewing Members:** Govt: \$165.00 Private: \$395.00
- 1st Time Member Discount:** Govt: \$80.00 Private: \$190.00

PAYMENT METHOD:

- Check/Money Order Claim Voucher/PO

REGISTRATION:

Pre-registration is preferred. Payments should be made in advance or brought with you to the event. Faxed (518-434-4640) registration forms will be invoiced.

Cancellations: Any cancellations before November 10, 2015 will be charged an Administrative Fee of \$15.00. **Cancellations received after this date** will not be refunded. Cancellation notices may be mailed to NYS GFOA at the address listed below, emailed to info@nysgfoa.org, or faxed to 518-434-4640.

No shows: If you are unable to attend and have not cancelled in writing by the date indicated above, you are obligated to pay the full amount.

MAIL REGISTRATION FORMS TO:

NYS GFOA • 126 State Street, 5th Floor • Albany, NY 12207
Questions? Call 518-465-1512 • Web site: www.nysgfoa.org



6J

**TOWN OF AURORA
ZONING BOARD OF APPEALS**

Southside Municipal Center
300 Gleed Avenue, East Aurora, NY 14052

TOWN OF AURORA, NEW YORK, ZONING BOARD OF APPEALS REQUEST FOR LEAD AGENCY STATUS AND REQUEST FOR REVIEW AND RECOMMENDATION ON THE PROPOSAL OF WEST HERR AUTOMOTIVE GROUP FOR A VEHICLE STORAGE YARD IN THE TOWN OF AURORA.

October 16, 2015

By this letter, the Town of Aurora Zoning Board of Appeals requests Lead Agency Status for the consideration of a request from West Herr Automotive Group for a 350 vehicle storage lot at 591 Olean Road (aka: Route 16), Town of Aurora, New York. Please advise whether your agency agrees with the Zoning Board of Appeals acting as Lead Agency by completing and return the attached consent form. Consent forms must be postmarked no later than November 14, 2015 and should be mailed in hard copy to the following address:

Town of Aurora
Zoning Board of Appeals
300 Gleed Avenue
East Aurora, NY 14052

Please find enclosed in connection with the proposal a complete State Environmental Quality Review (SEQR) Full Environmental Assessment Form Part 1 and Part 2 with attachment (copy of the West Herr proposal). This project is a Type I action pursuant to 6 NYCRR part 617 of the Implementing Regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

Notice Details: The Project may require discretionary approvals from the New York State Department of Environmental Conservation, New York State Department of Health, New York State Department of Transportation, Erie County Highway Department, County of Erie Department of Planning and Economic Development, Town of Aurora Planning Board, Town of Aurora Town Board, and Army Corps of Engineers. The ZBA proposes to conduct a coordinated review for this Type I Action, as the ZBA is uncertain about the concerns of other involved agencies and believes coordinated review is appropriate.

The Town of Aurora Zoning Board of Appeals invites your participation in the environmental review process as an involved agency or interested party. Comments must be postmarked no later than November 14, 2015 and should be mailed in hard copy to the address above.



TOWN OF AURORA ZONING BOARD OF APPEALS

STATE ENVIRONMENTAL QUALITY REVIEW
LEAD AGENCY STATUS CONSENT FORM

This notice is directed to you in accordance with State Environmental Quality Review Act (SEQR) procedures. Please complete and submit this form to: Town of Aurora Zoning Board of Appeals, 300 Glead Avenue, East Aurora, NY 14052. This form must be postmarked no later than November 14, 2015. Additional sheets may be used if necessary. Enclosed you will find a complete Full Environmental Assessment Form Part 1 and Part 2 with attachment for review.

1. Your agency's potential jurisdiction in the proposed action.

2. Your agency's concurrence that the Town of Aurora Zoning Board of Appeals assume the responsibility of lead agency.

3. Issues that your agency believes should be addressed.

Name of Involved/Interested Agency _____

Name and Title of Responsible Official _____

Signature of Responsible Official _____

Date of Signature _____

Ms. Ruth Pierpont
NYS Office of Parks, Recreation & Historic Preservation
Peebles Island Resource Center
P.O. Box 189
Waterford, NY 12188-0189

Erie County Department of Environment and Planning
95 Franklin Street
Buffalo, NY 14202

NYS Department of Transportation
100 Seneca Street
Buffalo, NY 14203

US Army Corp of Engineers
1776 Niagara Street
Buffalo, NY 14207

NYSDEC – Region 9
Regional Director
270 Michigan Avenue
Buffalo, NY 14203

Town of Aurora Town Board
300 Gleed Avenue
East Aurora, NY 14052

Town of Aurora Planning Board
300 Gleed Avenue
East Aurora, NY 14052

Village of East Aurora
Attn: Bryan Gazda, Village Administrator
571 Main Street
East Aurora, NY 14052

USDA Natural Resources Conservation Service
Attn: John Whitney
50 Commerce Way
East Aurora, NY 14052

NYS Office of Parks, Recreation & Historic Preservation
Attn: Ms. Rose Harvey
Empire State Plaza
Agency Building 1
Albany, NY 12238

Erie County Soil and Water Conservation District
50 Commerce Way
East Aurora, NY 14052

September 8, 2015

~~Ms. Jolene Jeffe~~
Supervisor
Town of Aurora
300 Glead Avenue
East Aurora, NY 14052

RE: Free Legal Assessment Regarding Cable Franchise and Wireless Matters

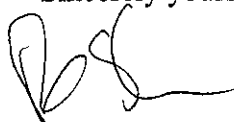
Dear ~~Ms. Jeffe~~:

For 18 years, our law firm has assisted local governments in cable, telecom, and wireless matters. We represent local governments in five states—Pennsylvania, New York, Maryland, Delaware, and West Virginia. This past year, through a franchise transfer, we obtained retroactive franchise fees of \$1.3 million from Time Warner for the City of Rochester, NY (pop. 210,565). We were also able to increase franchise fees by 116% for Vanport Township, PA (pop. 1,321) in a Comcast franchise renewal. Other Comcast renewals this past year included financial support for local PEG channels of \$771,456 for Salisbury City, MD (pop. 30,343) and \$460,000 for Lower Merion Township, PA (pop. 57,825). Finally, a franchise fee audit we did for California Borough, PA (pop. 6,795) resulted in a \$30,791 check from Armstrong Cable.

In addition to cable franchising, we also specialize in wireless facilities regulation. As wireless carriers attempt to install mini-towers (known as “distributed antenna systems” or “DAS”) in your streets and roads, we have assisted over 50 municipalities in the past year in amending or rewriting their old cell tower ordinances. The amended ordinances address these new technologies, protect residential neighborhoods, incorporate recent FCC and legislative mandates, and allow for new fees for the use of the public rights-of-way.

We would welcome the opportunity to achieve similar results for your municipality or county. **We are offering a free legal assessment of your cable franchise agreement and/or wireless facilities ordinance if you contact our law firm by October 30, 2015. We will review your documents and call you within one week to provide a legal assessment at no charge.** I have also included our firm brochure and recent newsletter for your information. Thank you for your consideration and please feel free to contact me if you have any questions or concerns.

Sincerely yours,



Daniel S. Cohen



CABLE FRANCHISE SERVICES

The Cohen Law Group's (CLG's) core practice is assisting local governments in cable franchise negotiations with their cable operators. CLG has represented hundreds of municipalities and counties in many states in such franchise negotiations. We have also assisted numerous multi-municipal groups, including councils of governments (COG's) and other municipal associations, in such negotiations.

Local governments have the legal right to require their cable operator(s) to enter into a cable franchise agreement that allows the operator(s) to use the streets and roads (the "public rights-of-way"). Municipal officials manage those rights-of-way as a public trust and are entitled to a reasonable return on the cable operator's use of those public properties. This includes significant financial and non-financial benefits from the cable operators.

A key benefit from a cable franchise is the receipt of franchise fees from the cable operator. Municipalities may assess up to five percent (5%) of the cable operator's gross revenues for cable services provided in the municipality. The term "gross revenues" includes over 25 separate revenue sources. CLG has developed a list of all eligible revenue sources and updates the list whenever a cable operator launches a new fee-based service.

CLG also negotiates with cable operators to obtain other important benefits. Depending on the operator, these benefits may include a cash franchise grant; franchise fee accountability; a cable system upgrade within a specified time frame; a state-of-the-art requirement; customer service standards; free cable and/or internet services to municipal facilities; public, educational and governmental (PEG) channels; and strong enforcement measures. CLG attorneys maximize these benefits for their clients because they know the law, they know the cable operator representatives, and they know the cable operators' negotiating strategies.

In addition to negotiating franchise agreements, CLG provides other cable-related services for municipalities. These include cable compliance reviews to determine whether the cable operator has complied with all of its obligations in the franchise agreement, as well as a host of services related to PEG channel evaluation and strategic planning. Finally, CLG closely monitors ongoing changes in the cable industry and at the Federal Communications Commission to determine their impact on municipalities. There have been dramatic changes in cable technology as well as the law and regulations pertaining to cable franchising in the last several years. CLG works hard to ensure that these changes are incorporated into the relationship between local governments and cable operators on an ongoing basis.



FRANCHISE FEE AUDIT SERVICES

Franchise fees are often a significant revenue source upon which local governments depend and factor into their annual budgets. Unlike other revenue items that are audited on an annual basis, however, most municipalities trust that their cable operators pay accurate franchise fees. We have learned from experience that this trust is often misplaced and, in reality, the cable operator has underpaid the municipality. Through a franchise fee audit, a municipality can hold the cable operator accountable for past payments and ensure that it receives the future franchise fee revenues to which it is entitled.

Section 622 of the federal Cable Act, 47 U.S.C. § 542, authorizes municipalities to assess a franchise fee on cable operators. A municipality may assess up to five percent (5%) of the cable operator's "gross revenues" to provide cable services in the municipality. The amount of franchise fee revenue paid to the municipality depends on the definition of "gross revenues" in the cable franchise agreement and the legal interpretation of that definition. There are currently approximately 25 revenue sources that should be included in "gross revenues."

We have found that errors in franchise fee payments arise for a variety of reasons. First, the cable operator's interpretation of "gross revenues" is often limited and, as such, biased in favor of the cable operator. This discrepancy is often not apparent until a franchise fee audit has been performed. Additionally, the cable operator's accounting department may inadvertently omit one or more revenue sources from the franchise fee calculation or misallocate certain revenue sources among three available services (cable, telephone, and internet). Finally, cable operators periodically change accounting methodologies or hire new accounting staff, and such changes may result in inaccurately recorded revenue figures. Through a franchise fee audit, such mistakes on the part of the cable operator are identified and corrected.

Our firm has performed hundreds of franchise fee audits of large cable operators, such as Comcast, Verizon, Time Warner, and smaller operators. Over the past three years, we have discovered underpayments in 73% of these audits. A franchise fee audit may also show that the cable operator has paid all of the franchise fee revenue to which the municipality is entitled. Even if there are no underpayments, the municipality will have achieved accountability for the franchise fee line item in its budget. Moreover, a franchise fee audit sends a strong message to the cable operator that the municipality is being vigilant in monitoring its franchise fee payments.

WIRELESS FACILITIES SERVICES

The dawn of the 21st Century has brought with it technological advances that have revolutionized the telecommunications industry. In the wireless market, the availability of wireless spectrum and advances in wireless technology have led to greater broadband capacity and more applications for “smart phones” and digital tablets. The industry has responded with new wireless infrastructure to boost coverage and capacity. This infrastructure has extended well beyond traditional cell towers to include distributed antenna systems (“DAS”) and small cells. A critical aspect of these technologies from the perspective of municipalities is that they all are located in the public rights-of-way.

The deployment of this new infrastructure creates challenges for municipalities and places new burdens on the public rights-of-way—property for which municipalities are charged with the responsibility of protecting and maintaining as a public trust. It also can create an adverse aesthetic impact on residential neighborhoods, decrease property values, and add new administrative costs for municipalities.

Most municipalities have not yet developed the regulatory framework to respond to these new technologies. Telecommunications providers demand “speed to market” and municipalities must be prepared to respond quickly to these demands. It is critical, therefore, that municipalities take a proactive approach to develop a regulatory structure that enables them to respond to wireless providers in a fair and equitable manner and to preserve the character of their communities. It is also an opportunity to obtain new fees from these companies occupying the rights-of-way.

Most local governments have not revised their wireless facilities ordinance (sometimes referred to as a cell tower ordinance) in years. These ordinances can be largely ineffective when faced with the new wireless landscape. There have also been major changes in the law in the last few years. These include the FCC’s “Shot Clock” Order and its new wireless siting regulations of 2014, the Pennsylvania Wireless Broadband Collocation Act of 2012, and the New York Wireless Facility Siting Act of 2015. We work with municipalities to craft tailored ordinances that balance the need for wireless broadband with the integrity of the underlying community.

In addition, we assist municipalities in negotiating cellular tower and antenna leases with wireless providers. Whether these facilities are located on remote land or on the roof of a fire station, our attorneys obtain maximum revenue from the wireless providers while ensuring that the municipality is adequately protected. We have negotiated wireless leases with every major carrier.



RIGHT-OF-WAY FEES AND MANAGEMENT

Pursuant to their general police powers and specific state authority, municipalities have the right to manage their streets and roads (“public rights-of-way”) and to assess fees for the use of these rights-of-way. While most municipalities currently charge minimal or no fees with respect to companies that use the rights-of-way, recent developments have caused many municipalities to re-evaluate their needs and to assess more reasonable fees.

One such development is that more companies are seeking to install wires, antennae, pipes, and other equipment in the public rights-of-way. Telecommunications companies, for example, including wired and wireless providers, are demanding quick access to the rights-of-way for installation of their facilities. In addition, changes in the cable industry are beginning to erode a long-time revenue source for municipalities—cable franchise fees. Federal law allows franchise fees to be assessed on cable service revenue, but not on internet-based revenue. As some cable customers engage in “cord cutting” by dropping their cable service in favor of streaming video over the internet, franchise fee revenue will begin to decrease.

As a result, municipalities are considering new and enhanced fees related to their control of the public rights-of-way. While a municipality is permitted to impose fees on companies using the rights-of-way, depending on state law, these fees must be related to the municipality’s costs in managing the rights-of-way. These costs include the local government’s direct and indirect right-of-way costs, including personnel costs, street degradation costs, and overhead. Most likely your municipality is “under-recovering” its right-of-way costs and may implement a new fee schedule to recover these costs from companies using the public rights-of-way.

In addition to new and enhanced revenues, municipalities also need new regulatory tools to better manage their rights-of-way as more companies seek to occupy the streets and roads. These new tools include, but are not limited to, regulations to improve public safety, require and coordinate company construction schedules, and ensure protection against financial risk. Through a right-of-way ordinance, local governments can begin to be proactive rather than reactive in overseeing companies in the public rights-of-way. The Cohen Law Group assists municipalities in drafting and negotiating right-of-way and pole attachment agreements, determining municipal costs and specific right-of-way needs, drafting a right-of-way ordinance tailored to the municipality, and implementing the new regulations and fee structure.



national fuel

GM

October 16, 2015

Town Of Aurora
300 Gleed Avenue
East Aurora, NY 14052

Dear Gentlemen:

Please find attached National Fuel Gas Distribution Corporation's ("NFGD") Notice to Terminate the Gas Purchase Agreement - Contract No. 001752, dated June 1, 2002, as amended, between NFGD and the Town Of Aurora, effective at the end of the gas day on November 30, 2015. Should the Town Of Aurora choose to continue selling gas to NFGD after the termination date, the Town Of Aurora will be required to enter into a new agreement with NFGD. Producers also have the option of selling their gas to marketers. Please contact me no later than November 13, 2015 at (716) 857-7107 to advise if you wish to sell your gas to NFGD or to a marketer beginning December 1, 2015.

For your convenience, if you wish to continue selling your gas to NFGD, I have included two sets of unexecuted originals of a Base Contract, Special Provisions and a Transaction Confirmation for Sale and Purchase of Natural Gas (collectively, "NAESB Agreement") between NFGD and the Town Of Aurora. If the Town Of Aurora elects to sell gas to NFGD after November 30, 2015, both sets of originals of the NAESB Agreement must be executed by a person authorized to bind the Town Of Aurora and returned to my attention at the address below no later than November 13, 2015. In addition, please provide the information in the flagged portion of the NAESB Agreement. NFGD will countersign and return a fully executed original for your files.

If you have any questions regarding the termination notice or NAESB Agreement, feel free to contact me.

Very truly yours,

Robert M. Michalski
Assistant General Manager

RMM/bjs

cc: Tamaylan Stutzman, Director Gas Measurement



national fuel

October 15, 2015

Town Of Aurora
300 Glead Avenue
East Aurora, NY 14052

RE: Notice to Terminate Gas Purchase Agreement - Contract No. 001752, dated June 1, 2002, as amended, between National Fuel Gas Distribution Corporation ("NFGD") and Town Of Aurora ("Gas Purchase Agreement")

NOTE: Pursuant to Article XIII, Notice of Termination of Gas Purchase Agreement, also sent to:

5 South Grove Street
East Aurora, NY 14052

Dear Gentlemen:

NFGD hereby gives notice of its intent to terminate the above-referenced Gas Purchase Agreement effective at the end of the gas day on November 30, 2015, pursuant to Article X thereof.

If you have any questions regarding this notice of termination, please contact Robert M. Michalski at (716) 857-7107.

Very truly yours,

John J. Polka, Jr.
Assistant Vice President

JPP/bjs

cc: Robert M. Michalski, Assistant General Manager
Tamaylan Stutzman, Director Gas Measurement

Base Contract for Sale and Purchase of Natural Gas

This Base Contract is entered into as of the following date: December 1, 2015. The parties to this Base Contract are the following:

National Fuel Gas Distribution Corporation
 6363 Main Street, Williamsville, NY 14221
 Duns Number: #00-697-6666
 Contract Number: 031215
 U.S. Federal Tax ID Number: 13-2759381

and Town Of Aurora
 300 Glead Avenue, East Aurora, NY 14052
 Duns Number: _____
 Contract Number: _____
 U.S. Federal Tax ID Number: _____

Notices:

6363 Main Street, Williamsville, NY 14221
 Attn: Gas Supply Administration
 Phone: (716) 857-7123 Fax: (716) 857-7823

300 Glead Avenue, East Aurora, NY 14052
 Attn: _____
 Phone: ____-____-____ Fax: ____-____-____

Confirmations:

6363 Main Street, Williamsville, NY 14221
 Attn: Gas Supply Administration
 Phone: (716) 857-7123 Fax: (716) 857-7823

300 Glead Avenue, East Aurora, NY 14052
 Attn: _____
 Phone: ____-____-____ Fax: ____-____-____

Invoices and Payment:

6363 Main Street, Williamsville, NY 14221
 Attn: Gas Accounting
 Phone: (716) 857-7123 Fax: (716) 857-7823

300 Glead Avenue, East Aurora, NY 14052
 Attn: _____
 Phone: ____-____-____ Fax: ____-____-____

Wire Transfer or ACH Numbers (if applicable):

BANK: JP Morgan Chase Bank, N.A.
 ABA: #021000021
 ACCT: #2261014886
 Other Details: _____

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

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

Section 1.2 <input type="checkbox"/> Oral (default) Transaction <input checked="" type="checkbox"/> Written Procedure	Section 7.2 <input type="checkbox"/> 25 th Day of Month following Month of Payment Date delivery (default) <input checked="" type="checkbox"/> Last Day of Month following Month of delivery
Section 2.5 <input type="checkbox"/> 2 Business Days after receipt (default) Confirm <input checked="" type="checkbox"/> 5 Business Days after receipt Deadline	Section 7.2 <input type="checkbox"/> Wire transfer (default) Method of <input type="checkbox"/> Automated Clearinghouse Credit (ACH) Payment <input checked="" type="checkbox"/> Check
Section 2.6 <input type="checkbox"/> Seller (default) Confirming <input type="checkbox"/> Buyer Party <input checked="" type="checkbox"/> National Fuel Gas Distribution Corporation	Section 7.7 <input checked="" type="checkbox"/> Netting applies (default) Netting <input type="checkbox"/> Netting does not apply
Section 3.2 <input type="checkbox"/> Cover Standard (default) Performance <input checked="" type="checkbox"/> Spot Price Standard Obligation Note: The following Spot Price Publication applies to both of the immediately preceding.	Section 10.3.1 <input checked="" type="checkbox"/> Early Termination Damages Apply (default) Early Termination <input type="checkbox"/> Early Termination Damages Do Not Apply Damages Section 10.3.2 <input type="checkbox"/> Other Agreement Setoffs Apply (default) Other Agreement <input checked="" type="checkbox"/> Other Agreement Setoffs Do Not Apply Setoffs
Section 2.26 <input type="checkbox"/> Gas Daily Midpoint (default) Spot Price <input checked="" type="checkbox"/> NGI's Daily Gas Price Index Publication	Section 14.5 Choice Of Law <u>New York</u>
Section 6 <input checked="" type="checkbox"/> Buyer Pays At and After Delivery Point Taxes (default) <input type="checkbox"/> Seller Pays Before and At Delivery Point	Section 14.10 <input checked="" type="checkbox"/> Confidentiality applies (default) Confidentiality <input type="checkbox"/> Confidentiality does not apply
<input checked="" type="checkbox"/> Special Provisions Number of sheets attached: 7 <input type="checkbox"/> Addendum(s): _____	

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

NATIONAL FUEL GAS DISTRIBUTION CORPORATION

Party Name
 By: _____
 Name: John J. Polka, Jr.
 Title: Assistant Vice President

TOWN OF AURORA

Party Name
 By: _____
 Name: _____
 Title: _____

General Terms and Conditions

Base Contract for Sale and Purchase of Natural Gas

SECTION 1. PURPOSE AND PROCEDURES

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

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

Oral Transaction Procedure:

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

Written Transaction Procedure:

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

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

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

SECTION 2. DEFINITIONS

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

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

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

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

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

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

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

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

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

SECTION 3. PERFORMANCE OBLIGATION

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

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

Cover Standard:

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

Spot Price Standard:

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

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

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

SECTION 4. TRANSPORTATION, NOMINATIONS, AND IMBALANCES

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

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

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

SECTION 5. QUALITY AND MEASUREMENT

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

SECTION 6. TAXES

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

Buyer Pays At and After Delivery Point:

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

Seller Pays Before and At Delivery Point:

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

SECTION 7. BILLING, PAYMENT, AND AUDIT

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

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

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

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

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

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

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

SECTION 8. TITLE, WARRANTY, AND INDEMNITY

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

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

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

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

SECTION 9. NOTICES

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

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

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

SECTION 10. FINANCIAL RESPONSIBILITY

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

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

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

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

Early Termination Damages Apply:

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

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

Early Termination Damages Do Not Apply:

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

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

Other Agreement Setoffs Apply:

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

Other Agreement Setoffs Do Not Apply:

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

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

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

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

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

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

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

SECTION 11. FORCE MAJEURE

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

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

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

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

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

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

SECTION 12. TERM

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

SECTION 13. LIMITATIONS

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

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

SECTION 14. MISCELLANEOUS

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

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

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

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

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

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

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

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

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

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

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

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

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

TRANSACTION CONFIRMATION
FOR IMMEDIATE DELIVERY

EXHIBIT A

Letterhead/Logo	Date: _____ Transaction Confirmation #: _____
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This Transaction Confirmation is subject to the Base Contract between Seller and Buyer dated _____. The terms of this Transaction Confirmation are binding unless disputed in writing within 2 Business Days of receipt unless otherwise specified in the Base Contract.

SELLER:

 Attn: _____
 Phone: _____
 Fax: _____
 Base Contract No. _____
 Transporter: _____
 Transporter Contract Number: _____

BUYER:

 Attn: _____
 Phone: _____
 Fax: _____
 Base Contract No. _____
 Transporter: _____
 Transporter Contract Number: _____

Contract Price: \$ ____/MMBtu or _____

Delivery Period: Begin: _____, _____ End: _____, _____

Performance Obligation and Contract Quantity: (Select One)

Firm (Fixed Quantity):

_____ MMBtus/day
 EFP

Firm (Variable Quantity):

_____ MMBtus/day Minimum
 _____ MMBtus/day Maximum
 subject to Section 4.2. at election of
 Buyer or Seller

Interruptible:

Up to _____ MMBtus/day

Delivery Point(s): _____

(If a pooling point is used, list a specific geographic and pipeline location):

Special Conditions:

Seller: _____
 By: _____
 Title: _____
 Date: _____

Buyer: _____
 By: _____
 Title: _____
 Date: _____