



Deal Entry Exhibit Only  
09/18/09

JL200263

This Exhibit serves to confirm the following transaction entered into between Buyer and Pepco Energy Services, Inc. subject to the Base Natural Gas Sales Agreement entered into by the parties hereto.

<b>Seller:</b> Pepco Energy Services, Inc. 1300 North 17th Street Suite 1600 Arlington, VA 22209  <b>Contact:</b> David Granitzki/Jennifer Lloyd <b>Phone:</b> (973) 805-5800 <b>Fax:</b> (703) 253-1687 <b>Email:</b> dgranitzki@pepcocenergy.com	<b>Buyer:</b> Township of Stafford /Lead Age Stafford Township Pricing System 260 Bay Avenue Manahawkin, NJ 08050 c/o PMK Group (consultant) Lake Center Executive Park Building 10, Suite 101 401 Route 73 North Marlton, NJ 08053  <b>Contact:</b> Tara Pasca <b>Phone:</b> (856) 596-8871 <b>Fax:</b> (856) 596-4308 <b>Email:</b> pasca@birdsall.com
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**Term:** January 1, 2010 to December 31, 2011

**Contract Price (in \$/Dth):** --- NYMEX + \$2.217 per Dth (Customer has full requirements) ---

**Point of Delivery:** New Jersey Natural ("NJN") City Gate

**Account Number(s):** See attached list for accounts, and towns (all current customers)

**Type of Transaction:** Firm-Full Requirements

**Billing:** Dual Billed, Full Requirement

**DUAL Billing based on DCQ: Daily Contract Quantity.** Seller will invoice Buyer for volumes equal to the sum Daily Contract Quantity (DCQ) for the applicable billing period. Buyer acknowledges that the Utility exclusively Buyer's DCQ and that the Utility will adjust future DCQs based on Buyer's actual usage. Should Buyer leave Seller's customer pool, Buyer may be debited or credited for any difference between the total of Buyer's DCQs and the Buyer's actual usage (the final adjustment). The unit price applied to the final adjustment will be equal to the weighted average price charged to Buyer by Seller during the adjustment period. Buyer acknowledges that the Utility may not release volumetric data related to the final adjustment for up to six (6) months after Buyer leaves Seller's firm customer pool. Buyer agrees to pay all non-disputed charges as per the terms of the Base Natural Gas Sales Agreement and will not withhold payment pending the final adjustment.

**Payment Terms:** Normal

**Monthly Contract Quantities (Dth):** Seller will deliver 100% of the Buyer's natural gas requirements for the duration of this Agreement for the Accounts Numbers listed herein at the Contract Price. Estimated Consumption Quantities are provided below (in dth per month)

Jan	10,897	Feb	13,408	Mar	9,338
Apr	5,622	May	2,368	Jun	1,165
Jul	670	Aug	1,025	Sep	1,170
Oct	1,983	Nov	4,728	Dec	6,873

**Special Provisions:**

NATURAL GAS  
FULL REQUIREMENTS

PAGE

- 1) **Volumetric Changes.** Buyer must notify Seller of any anticipated significant change in Buyer's Estimated Consumption Quantities, as compared to the Estimated Consumption Quantities listed herein.
  - 2) **Firm Obligations.** Buyer and Seller have respective Firm obligations to deliver and to receive 100% of the Firm's daily natural gas requirements for the Term of this Agreement. Seller will schedule Buyer's daily natural gas requirements as necessary to affect delivery to Buyer's facilities.
  - 3) **Excess/Remarket Quantities.** Buyer shall pay Seller the Contract Price for all quantities consumed.
  - 4) **NYMEX Price.** The New York Mercantile Exchange (NYMEX) component of the Contract Price shall be equal to the NYMEX natural gas contract expiration price (or settle) for the month of delivery unless Buyer executes a NYMEX purchase request. NYMEX purchase requests can be made at anytime prior to 12:00 p.m. Eastern Prevailing Time on the day of the NYMEX natural gas contract expiration for the month of delivery. To make a NYMEX purchase request, Buyer shall contact Seller's transaction desk at 888-235-9153. If for any reason the price specified in the NYMEX purchase request is not achieved before 12:00 p.m. on the day that the NYMEX natural gas contract expires for the month of delivery, the NYMEX component of the Contract Price shall be equal to the NYMEX settle price for the applicable month of delivery.
  - 5) **Taxes and Surcharges.** Surcharges, state & local taxes or Gross Receipts taxes are not included as part of the Contract Price stated herein and will be passed through as incurred. If eligible for tax exempt status, Buyer is solely responsible for providing Seller with the applicable tax exemption certificate(s). Seller will apply all appropriate taxes unless a tax exemption certificate(s) is received. Seller is under no obligation to provide Buyer a tax refund for services previously rendered based on a tax exemption certificate(s) provided after the start of service.
- 5) **Tax Exempt:**  Yes Tax exempt status will not be provided unless and until Buyer provides Seller the applicable tax exemption certificate(s). Seller is under no obligation to provide Buyer a tax refund for services previously rendered based on a tax exemption certificate(s) provided after the start of service.

The prices within this Exhibit are valid until 4:00 p.m. Eastern Prevailing Time on the date of the Exhibit. To indicate acceptance, Buyer must sign below and fax this Exhibit to (703)253-1687.

Seller: Pepco Energy Services, Inc.

Buyer: Township of Stafford /Lead Agency  
Stafford Township Pricing System

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: Township of Stafford  
Name: Nicole DeS  
Title: Purchasing Agent  
Date: 1/5/2010

**RESOLUTION NO. 2009 - 67**

**RESOLUTION OF THE TOWNSHIP OF STAFFORD, COUNTY OF OCEAN,  
STATE OF NEW JERSEY, AMENDING RESOLUTION  
NO. 2008-293 AWARDING AN EXTENSION OF AN AGREEMENT BETWEEN  
MEMBERS OF THE COOPERATIVE PRICING SYSTEM AND PEPCO  
ENERGY SERVICES**

**WHEREAS**, Stafford Township is the Lead Agency of the Stafford Township Cooperative Pricing System; and

**WHEREAS**, the participating units in the Stafford Township Cooperative Pricing System are the Boroughs of Barnegat Light, Beach Haven, Belmar, Lavallette, Point Pleasant, Point Pleasant Beach and Beachwood; the Townships of Barnegat, Brick, Jackson, Lacey, Little Egg Harbor, Manchester and Toms River; and the Municipal Utilities Authority of Toms River; and

**WHEREAS**, Stafford Township, as the lead agency in the Stafford Township Cooperative Pricing System, awarded a contract for provision and delivery of natural gas to Pepco Energy Services by Resolution No. 2007-295; and

**WHEREAS**, Stafford Township entered into an agreement with Pepco Energy Services, 1300 North 17<sup>th</sup>, Arlington, Virginia, 22209, dated December 4, 2007 for the furnishing and delivery of natural gas, said contract being for a period of twenty-four months commencing February 1, 2008 and terminating January 31, 2010; and

**WHEREAS**, Stafford Township adopted Resolution No. 2008-293 extending said contract for a period of two (2) years, but said extension should have been for a period of 23 months, or until December 31, 2011; and

**WHEREAS**, N.J.S.A. 40A:11-15 authorizes the extension of said agreement; and

**WHEREAS**, Stafford Township, as the lead agency in the Stafford Township Cooperative Pricing System, finds that the services being provided by Pepco Energy Services are being performed in an effective and efficient manner; and

**WHEREAS**, Stafford Township is desirous of extending the contract for a period of 23 months, amending Resolution No. 2008-293 accordingly; and

**WHEREAS**, any price change in the contract is advantageous to Stafford Township and members of the Stafford Township Cooperative Pricing System as the price of natural gas has decreased; and

**WHEREAS**, the terms and conditions of the agreement dated December 4, 2007 remain substantially the same.

**NOW, THEREFORE, BE IT RESOLVED**, by the governing body of the Township of Stafford, County of Ocean, State of New Jersey, as follows:

1. That the Mayor and Municipal Clerk are hereby authorized to execute any and all documents as the lead agency for the Stafford Township Cooperative Pricing System, and on behalf of the participating contracting units, necessary to effectuate the extension of the agreement between Stafford Township and Pepco Energy Services dated December 4, 2007 for a period of 23 months until December 31, 2011. Pepco Energy Services must execute agreements with each participating unit. All such agreements memorializing the extension shall be subject to the annual availability and appropriation of sufficient funds by the contracting entities pursuant to N.J.S.A. 40A:11-5.

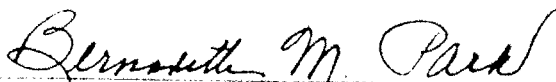
2. That the Purchasing Agent for Stafford Township is authorized to sign any further documents necessary to effect the purposes of this resolution.

3. The terms and conditions of all such extensions shall remain substantially the same as the agreement entered into between Stafford Township and Pepco Energy Services dated December 4, 2007.

4. That a certified copy of this resolution be forwarded to the Chief Financial Officer, the Purchasing Agent for Stafford Township as the lead agency of the Stafford Township Cooperative Pricing System and Pepco Energy Services.

#### CERTIFICATION

I, **BERNADETTE M. PARK**, Clerk of Stafford Township, do hereby certify that the foregoing resolution was duly adopted by the Stafford Township Council at a meeting held on the 20<sup>th</sup> day of January, 2009.



**BERNADETTE M. PARK, RMC, CMC**  
Township Clerk, Township of Stafford

**CERTIFICATION OF AVAILABILITY OF FUNDS**

I, **DOUGLAS R. GANNON**, Chief Financial Officer for the Township of Stafford, do hereby certify that no amount shall be chargeable or certified until such time as goods and/or services are ordered and/or rendered. Prior to incurring the liability by placing the order and/or receiving the services, the certification of available funds shall be issued and attached to the file copy of the purchase order or other such document.

A handwritten signature in black ink, appearing to read 'D. R. Gannon', written over a horizontal line.

**DOUGLAS R. GANNON**  
Chief Financial Officer, Stafford Township

**STAFFORD TOWNSHIP COOPERATIVE PRICING SYSTEM  
AND PEPCO ENERGY SERVICES**

**EXTENSION AGREEMENT**

**WHEREAS**, the Township of Stafford, a municipal corporation of the State of New Jersey, having its principal offices located at the Stafford Township Municipal Building, 260 East Bay Avenue, Manahawkin, New Jersey, hereinafter referred to as "Lead Agency," previously entered into an agreement for the furnishing and delivery of natural gas with Pepco Energy Services, having its principal offices located at 1300 North 17<sup>th</sup>, Arlington, Virginia, 22209, hereinafter referred to as "Contractor," dated December 4, 2007, and

**WHEREAS**, the term of that agreement was for twenty-four months commencing February 1, 2008 and terminating January 31, 2010; and

**WHEREAS**, Stafford Township, as the lead agency for the Stafford Township Cooperative Pricing System, has by resolution authorized an extension of that agreement for a period of two years (Resolution No. 2009-67); and

**WHEREAS**, the participating units in the Stafford Township Cooperative Pricing System are the **Boroughs of** Barnegat Light, Beach Haven, Belmar, Lavallette, Point Pleasant, Point Pleasant Beach and Beachwood; **the Townships of** Barnegat, Brick, Jackson, Lacey, Little Egg Harbor, Manchester, Stafford and Toms River; and the Municipal Utilities Authority of Toms River; and


**NOW, THEREFORE, BE IT AGREED** between Stafford Township, as the Lead Agency for the Stafford Township Cooperative Pricing System, and Pepco Energy Services for the consideration hereinafter mentioned, as follows:

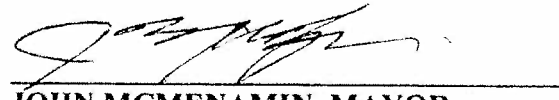
1. The Contract between Stafford Township and Pepco Energy Services dated December 4, 2007 be and hereby is amended so that the term of the contract shall be extended for an additional 23-months and that the contract period is hereby extended to December 31, 2011, at which time the contract shall terminate. This extension shall be subject to the annual availability and appropriation of sufficient funds by Stafford Township pursuant to N.J.S.A. 40A:11-15.
2. All terms and conditions of the agreement dated December 4, 2007 by and between the parties, not modified herein, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have set heir hands and seals the  
day and year first written above.

WITNESS & ATTEST:

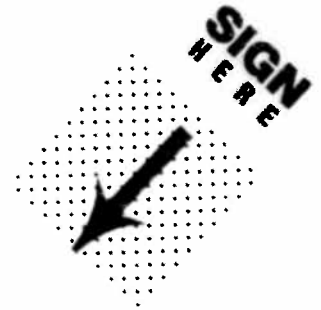
TOWNSHIP OF STAFFORD, Lead Agency

  
BERNADETTE M. PARK, RMC, CMC  
Township Clerk  
(Seal)

  
JOHN MCMENAMIN, MAYOR

WITNESS & ATTEST:

PEPCO ENERGY SERVICES



\_\_\_\_\_  
SECRETARY  
(Seal)

\_\_\_\_\_  
PRESIDENT

**APPENDIX A - A G R E E M E N T**

**THIS AGREEMENT** made and entered into this 15<sup>th</sup> day of January, <sup>2008</sup>~~2006~~, by and between Manchester Township, a Body Politic of the State of New Jersey, having its principal place of business at 1 Colonial Drive, Manchester, NJ 08733, hereinafter referred to as "Township" and Pepco Energy Services, Inc., with its principal office located at 1300 N 17<sup>th</sup> Street, Suite 1600, Arlington, VA 22209, hereinafter referred to as "Supplier".

**W I T N E S S E T H** that the Township and the Supplier, for the consideration hereinafter mentioned, mutually covenant and agree as follows:

**1. SPECIFICATIONS**

The Supplier for an amount of 2.217 S/Dth shall furnish all of the materials and where applicable, all equipment and supplies and perform all of the labor in accordance with the contract, further it will furnish and deliver natural gas in a good and workman like manner and in strict accordance with the specifications, attached hereto and made a part hereof. Further, this Supplier shall do everything referred to so as to complete such work as set forth by this Agreement, and attached Contract documents. The specifications, proposal, bid advertisement, if any, are incorporated in and made a part of this Agreement.

**2. DATES OF CONTRACT.**

This contract shall be for a period of (24) twenty four months. It shall commence on February 1, 2008, and shall terminate on January 31, 2010. Supplier agrees to provide the requirements of the Township upon the commencement date of the contract.

If applicable, any extension of the original term of this Agreement shall be subject to the annual availability and appropriation of sufficient funds by Manchester Township pursuant to N.J.S.A. 40A:11-15.

### 3. REPRESENTATIONS AND WARRANTIES OF THE Township

The Township hereby represents and warrants that it is a body politic and corporate of the State of New Jersey validly existing under the Constitution and laws of the State of New Jersey, with full legal right, power and authority to enter into and perform its obligations under this agreement.

### 4. REPRESENTATIONS AND WARRANTIES OF SUPPLIER

The Supplier hereby represents and warrants that it is duly organized and validly existing as a corporation under the laws of the State of Delaware, with full legal right, power and authority to enter into and perform its obligations under this Agreement.

Further, the Supplier warrants that he is licensed to provide the full requirements of natural gas to customers in the State of New Jersey, and has been issued Board License Number GSL-0050;

The Supplier has duly authorized the execution and delivery of this Agreement. This Agreement has been duly executed and delivered by the Supplier and constitutes the legal, valid and binding obligation of the Supplier, enforceable against the Supplier in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditors' rights generally.

The information supplied by the Supplier in all submittals made in response to the bid request and all post-bid submittals is correct and complete in all material respects as of the date or dates submitted, except to the extent the Township has received written notice of any changes prior to execution of this Agreement.

## 5. INSURANCE.

On or before commencing the work the Supplier shall file with the Township evidence of the insurance coverage required in the specifications. The policy shall state "All Bodily Injury and Property Damage arising out of continuous or repeated exposure to substantially the same general conditions is to be considered as arising out of one occurrence." Coverage shall be effective and continuous for the entire term of the Agreement. A Certificate of Insurance form must be completed in accordance with the attached specifications. Your insurance broker can assist you in obtaining the form and completing same.

## 6. AUDIT RIGHTS.

The Township shall have the right, upon reasonable notice and at reasonable times, to examine the books and records of the Supplier and to make abstracts thereof to the extent reasonably necessary to verify the accuracy of any billing statement, payment demand, charge, payment or computation made under this Agreement. Notwithstanding any other provision of this Agreement, the rights conferred by this Section shall survive the expiration or earlier termination of this Agreement by a period of one (1) year.

## 7. INDEPENDENT SUPPLIER STATUS

The Supplier and its employees, suppliers, subcontractors, agents and representatives are, for all purposes arising out of the Agreement, independent Suppliers and Subcontractors and not employees of the Manchester Township. It is expressly understood and agreed that the Supplier and its employees, suppliers, subcontractors, agents and representatives shall in no event, as a result of the Agreement, be entitled to any benefit to which Manchester Township employees are entitled, including but not

limited to, overtime, retirement benefits, worker's compensation benefits and injury leave or other leave benefits.

#### 8. TERMINATION OF CONTRACT

This Agreement may be terminated based on the following:

- (a) except as provided in (d) and (e) below, by the Township, if the Supplier fails to remedy or cure any breach or default of any material provision or condition of this Agreement or the bid specifications within thirty (30) days following written notice to do so by the Township; or
- (b) by the Supplier, if the Township fails to remedy or cure any breach or default of any material provision or condition of this Agreement within thirty (30) days following written notice to do so by the Supplier; or
- (c) by the adversely affected party, if any material provision or condition of this Agreement be finally adjudged invalid by any court of competent jurisdiction with all rights of appeal exhausted, or if the BPU exercises its jurisdiction so as to invalidate or disapprove this Agreement in whole or significant part; or
- (d) by the Township, immediately, in the event Supplier repeatedly fails to provide or arrange for the required service to the Township facilities; or
- (e) by the Township, at its sole option, immediately upon the filing of a voluntary bankruptcy petition by the Supplier, or the final adjudication of the Supplier as bankrupt after the filing of an involuntary petition;

Supplier shall be liable for, inter alia, any losses, costs, fees or expenses the Township incurs in excess of the contract price should the Township be obliged to procure replacement gas as a result of the termination of this agreement by the Township

pursuant to (a) through (e) of this Section, in excess of the cost the Township would have incurred during the term of the Agreement had it not so terminated. The parties acknowledge that termination of this Agreement by the Township upon the breach by Supplier would severely harm the Township. Therefore, in the event of any voluntary or involuntary bankruptcy or similar proceeding on the part of Supplier, Supplier agrees that it will petition any relevant court for prompt action to accept or reject this agreement.

#### 9. CONTRACT TERMINATION ARRANGEMENTS.

Upon the termination of this agreement, including the natural end of the term, any monies due and owing Supplier shall be paid under the terms hereof, and any corrections or adjustment to payments previously made shall be determined and any refunds due the Township, or additional payments due Supplier, shall be timely made within 45 days of receipt of notice of such obligation. The Supplier shall fully cooperate with the Township in connection with the transition to a new service supplier following the termination or expiration of this Agreement. The provisions of this Section shall survive the expiration or earlier termination of this Agreement.

#### 10. CHANGES AND MODIFICATIONS

The parties may from time to time during the term of the Agreement make changes, or other modifications to the Agreement. Such modifications shall only be made in writing and by mutual agreement. Any such changes shall be agreed to by the Director of the applicable department and the Manchester Township Purchasing Department.

#### 11. SEVERABILITY

If any of the provisions of the contract are invalid or unenforceable, such invalidity may not void the entire contract, but rather the entire contract shall be

construed as if not containing the particular invalid or unenforceable provision(s), and the rights and obligations of the parties shall be construed and enforced accordingly.

If the provision of natural gas requirements to any account within the Township shall be declared or rendered unlawful by a court or regulatory agency of competent jurisdiction, the remaining accounts in the Township shall continue to receive the full requirements for service from the Supplier at the applicable Contract Price for such accounts and under the terms of this Agreement.

#### 12. PERFORMANCE BOND

The Performance Bond form must be completed in accordance with the attached specifications and submitted to Township by Supplier with this agreement. The proper corporate officers must execute same where indicated on all copies of said Bond. If the Supplier is a corporation, the Secretary must affix the corporate seal to each Agreement over his/her signature.

#### 13. PAYMENT

Payment requests are indicated in the bid specifications, which are attached hereto and made a part hereof.

#### 14. RISK OF LOSS

Risk of Loss of natural gas provided under this agreement shall remain with the Supplier until it shall pass to the Township upon delivery of said natural gas to the Delivery Point specified for each facility that is a part of the Township Facilities.

#### 15. ALTERNATE DISPUTE RESOLUTION

If a dispute between the Township and the Supplier arises during the course of this Agreement, the parties will attempt to resolve the dispute, in good faith, through non-binding mediation.

Either party may demand such mediation by written notice to the other party. The written notice shall contain at least (a) a brief statement of the nature of the dispute, and (b) the name, address and phone number of that party's designated representative for purposes of mediation. The other party shall designate its representative for mediation in writing no later than five business days after receipt of the demand for mediation. The respective designees shall thereupon, and promptly, with due regard for the need for timely action, choose a mediator.

The parties will not be bound by the Rules of Evidence in presenting their positions before the mediator. The mediation shall be conducted in such reasonable and efficient manner as may be agreed between the parties and the mediator or, in the lack of such an agreement, as may be determined by the mediator. Each party will bear its own costs of participation in the mediation and they will divide the costs of the mediator equally.

If the dispute is not resolved after a reasonable period of time, not to exceed 30 days, from the date of receipt of the initial written demand for mediation, either party may terminate the mediation by written notice to the mediator and to the other party, whereupon either party may submit the dispute to the Superior Court of New Jersey, Ocean County, for adjudication, which Court shall have exclusive original jurisdiction over the dispute.

#### 16. COMPLIANCE WITH STATUTE

The Supplier shall promptly and fully comply with all applicable statutes, ordinances, judgments, decrees, orders, rules and regulations of any legislature, court, agency or other governmental body having jurisdiction over the Supplier's activities,

including, but not limited to, all billing, collection, environmental disclosure, and termination regulations of the BPU applicable to the services being provided by the Supplier hereunder.

Whenever performance of an obligation of the Supplier requires the consent or approval of any governmental agency or body, the Supplier shall promptly obtain such consent or approval.

#### 17. FORCE MAJEURE

For purposes of the Contract, "force majeure" shall consist only of the following: acts of God; acts of public enemy; wars; civil disturbances; and riots; landslides; earthquakes; fires; and restraints imposed by governmental authority which have the effect of substantially preventing or curtailing the supply of gas to Supplier's customers generally and which were not the result of any action or inaction of the Supplier. In the event of a force majeure occurrence, the Supplier's obligation to deliver Gas shall be suspended for the actual period of the force majeure occurrence, but only for that period. The term of the Contract shall not be lengthened as the result of any force majeure occurrence. Supplier's obligation to deliver Gas shall be suspended as the result of any force majeure occurrence if, and only if, Supplier notifies the Township within twenty four (24) hours of the occurrence with respect to the occurrence itself and, if known, the anticipated period of interruption.

#### 18. DISCRIMINATION

This Supplier acknowledges that he has a copy of the New Jersey Law Against Discrimination and of the Rules and Regulations thereon issued by the Division of Civil Rights, and shall fully comply therewith as applicable.

19. INDEMNIFICATION

The Supplier shall indemnify and hold harmless the Township and its agents and employees from and against all claims, damages, losses and expenses, including attorney's fees, arising out of or resulting from the performance of the contract which is attributable to personal injury, including bodily injury, property damage and the loss of use resulting there from, or the loss of use of tangible property, which has not been physically injured or destroyed, and is caused in whole or in part by an act or omission of the Supplier, any subcontractor of the supplier, any one directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

20. GENERAL NOTICE

All notices, demands, requests, consents or other communications required or permitted to be given or made under this Agreement shall be in writing and;

if to Supplier to:

Pepco Energy Services Inc.

Attn: Contracts Administrator

1300 N 17<sup>th</sup> Street, Suite 1600

Arlington, VA 22209

if to the Township to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notices hereunder shall be deemed properly served: (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this Agreement; (ii) if sent by mail, on the third business day after the day on which

deposited in the United States certified or registered mail, postage prepaid, addressed to the intended recipient at its address set forth in this Agreement; or (iii) if by reputable express mail service, on the day of confirmed delivery to the intended recipient at its address set forth in this Agreement.

#### 21. CHANGES IN CONTACT PERSONS.

With proper notice, any party may change its address and contact person for this purpose. In the event that the name or telephone number of any contact for the Supplier changes, Supplier shall give prompt notice to the Township. In the event that the name or telephone number of any contact person for the Township changes, prompt notice shall be given to the Supplier.

#### 22. MISCELLANEOUS

This agreement shall be governed by and construed under the laws of the State of New Jersey without regard to principles of conflicts of law. The Supplier irrevocably agrees that, subject to Manchester Township's sole and absolute election, any action or proceeding in any way, manner or respect arising out of the Agreement, or arising from any dispute or controversy arising in connection with or related to the Agreement, shall be litigated only in the courts having status within the State of New Jersey, and the Supplier consents and submits to the jurisdiction of any local, state or federal court located within such City, Township and State.

#### 23. WAIVER

No waiver by any party hereto of any one or more defaults by any other party in the performance of any provision of this Agreement shall operate or be construed as a

waiver of any future default, whether of like or different character. No failure on the part of any party hereto to complain of any action or non-action on the part of any other party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the party so failing. A waiver of any of the provisions of this Agreement shall only be effective if made in writing and signed by the party who is making such a waiver.

#### 24. HEADINGS

The headings of articles, paragraphs and sections in the Agreement are included for convenience only and shall not be considered by either party in construing the meaning of this Agreement.

#### 25. ENTIRE AGREEMENT

It is expressly agreed that the provisions set forth in the Bid Specifications and this agreement constitute all the understandings and agreements between the parties. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement or the specifications is of no force and effect. Any term in this Agreement in direct conflict with any term in the Bid Specifications shall be resolved in favor of the Bid Specifications.

#### 26. ASSIGNMENT

The successful Supplier is prohibited from assigning, transferring, conveying, or otherwise disposing of its agreement or its rights, title, obligation or interest therein to any other person, company or corporation without prior written consent and approval of the Township. If such a transfer without consent occurs, the Township may refuse to carry out its contract with either the Assignor or Assignee, and reserves all rights of action for breach of the contract.

27. SUBCONTRACTING

The subcontracting of this contract will not be permitted without the expressed written consent of Manchester Township.

28. PRICE CHANGES

All prices shall be firm and not subject to increase during the period of this contract.

29. COOPERATION WITH OTHER SUPPLIERS

The Supplier shall fully cooperate with other Suppliers of Manchester Township, the Township's employees, or the employees of others as may be required by circumstances or directed by Manchester Township.

**IN WITNESS WHEREOF**, the parties hereto have set their hands and seals the day and year first above written.

ATTEST:

\_\_\_\_\_

MANCHESTER TOWNSHIP

BY \_\_\_\_\_

APPROVED AS TO FORM

\_\_\_\_\_

ATTEST:

PEPCO ENERGY SERVICES INC.

\_\_\_\_\_  
Secretary

PEPCO ENERGY SERVICES INC.

\_\_\_\_\_  
Signature

Robert Barron,  
President Retail Gas Supply