

Master Purchase Order

DO NOT INVOICE TO THIS ADDRESS		Workday™ Supplier Contract No. SC-00006430	
City & County of Denver		Date: November 10, 2021	Revision No.
Purchasing Division		Payment Terms: Net 30	Resolution (as applicable):
201 West Colfax Avenue, Dept. 304		Freight Terms: FOB DESTINATION	
Denver, CO 80202		Ship Via	
United States		Analyst: Aran D Raz	
Phone: 720-913-8100		Phone: 303-342-2113	

Workday Supplier ID: SUP-00009075 Phone: 785-623-0125 Email: karen.simpson@encoreenergy.com

Encore Energy Services Inc
 12120 Port Grace Blvd
 STE 200
 La Vista, NE 68128
 Attn: Karen Simpson
 Colorado Secretary of State ID: 20131215767
U.S. Federal SAM Registry Verification Date: XX/XX/20XX

Ship To: Various City Locations
 Bill To: As Specified By Agency

1. Goods/Services:

Encore Energy Services Inc, a Nebraska S Corporation, (“Vendor”) shall provide the goods, and any services related thereto, identified and described on attached **Exhibits A, B and C** to the City and County of Denver, a Colorado municipal corporation (the “City”), all in accordance with the terms and conditions of this Master Purchase Order.

2. Ordering:

The City shall purchase one or more of the goods/services by issuing a written purchase order(s) or similar appropriate written document (“Order”), each of which will be deemed incorporated into this Agreement for purposes of such Order only.

3. Pricing:

The pricing/rates for the goods/services is contained on **Exhibits A, B and C** and shall be held firm for the term of this Master Purchase Order.

4. Term/Renewal:

The term of this Agreement shall be from January 01, 2022 to and including December 31, 2022. The City and the vendor may mutually agree to renew and continue this agreement for additional periods at the same pricing structure, terms and conditions. However, no more than four (4) yearly renewals shall be made or surpass 12/31/2026.

5. Non-Exclusive:

This Master Purchase Order is non-exclusive. City does not guarantee any minimum purchase other than as provided herein.

6. Inspection and Acceptance:

Vendor shall perform any services in accordance with the standard of care exercised by highly competent vendors who perform like or similar services. City may inspect all goods/services prior to acceptance. Payment does not constitute acceptance. Vendor shall bear the cost of any inspection/testing that reveal goods/services that are defective or do not meet specifications. City's failure to accept or reject goods/services shall not relieve Vendor from its responsibility for such goods/services that are defective or do not meet specifications nor impose liability on City for such goods/services. If any part of the goods/services are not acceptable to City, City may, in addition to any other rights it may have at law or in equity: (1) make a warranty claim; (2) repair and/or replace the goods or substitute other services at Vendor's expense; or reject and return the goods at Vendor's cost and/or reject the services at Vendor's expense for full credit. Any rejected goods/services are not to be replaced without written authorization from City, and any such replacement shall be on the same terms and conditions contained in this Purchase Order.

7. Shipping, Taxes and Other Credits and Charges:

All pricing is F.O.B. destination unless otherwise specified. Shipments must be marked with Vendor’s name, the Master Purchase Order number, and contain a delivery or packing slip. Vendor shall not impose any charges for boxing, crating, parcel post, insurance, handling, freight, express or other similar charges or fees. Vendor shall notify City in writing of any price decreases immediately, and City shall receive the benefit thereof on all unshipped items. Vendor shall comply with any additional delivery terms specified herein. Vendor shall be responsible for the cleanup and reporting of any contamination (environmental or otherwise) or spillage resulting from the delivery and/or unloading of goods within twenty-four (24) hours of the contamination or spillage or sooner if required by law. Vendor shall procure all permits

and licenses; pay all charges, taxes and fees; and give all notices necessary and incidental to the fulfillment of this Master Purchase Order and all cost thereof have been included in the prices contained herein. City shall not be liable for the payment of taxes, late charges or penalties of any nature, except as required by D.R.M.C. § 20-107, et seq. The price of all goods/services shall reflect all applicable tax exemptions. City's Federal Registration No. is 84-6000580 and its State Registration No. is 98-02890. Vendor shall pay all sales and use taxes levied by City on any tangible personal property built into the goods/services. Vendor shall obtain a Certificate of Exemption from the State of Colorado Department of Revenue prior to the purchase of any materials to be built into the goods/services and provide a copy of the Certificate to City prior to final payment.

8. Risk of Loss:

Vendor shall bear the risk of loss, injury or destruction of goods prior to delivery to City. Loss, injury or destruction shall not release Vendor from any obligation hereunder.

9. Invoice:

Each invoice shall include: (i) the Purchase Order number; (ii) individual itemization of the goods/services; (iii) per unit price, extended and totaled; (iv) quantity ordered, back ordered and shipped; (v) an invoice number and date; (vi) ordering department's name and "ship to" address; and (vii) agreed upon payment terms set forth herein.

10. Payment:

Payment shall be subject to City's Prompt Payment Ordinance D.R.M.C. § 20-107, et-seq. after City accepts the goods/services. Any other provision of this Agreement notwithstanding, in no event shall the City be liable for aggregate payments under this Master Purchase Order in excess of forty million dollars (\$40,000,000.00). The Vendor acknowledges that any goods/services provided beyond those specifically described in **Exhibit A** are performed at Vendor's risk and without authorization from the City. City's payment obligations hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Master Purchase Order, encumbered by the City after receipt of Vendor's invoice and paid into the Treasury of City. Vendor acknowledges that: (i) City does not by this Master Purchase Order, irrevocably pledge present cash reserves for payments in future fiscal years; and (ii) this Master Purchase Order is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of City. City may setoff against any payments due to Vendor any claims and/or credits it may have against Vendor under this Master Purchase Order.

11. Amendments/Changes:

Only the Executive Director of General Services or his/her delegate is authorized to change or amend this Master Purchase Order by a formal written change order. Any change or amendment that would cause the aggregate payable under this Master Purchase Order to exceed the amount appropriated and encumbered for this Master Purchase Order is expressly prohibited and of no effect. Vendor shall verify that the amount appropriated and encumbered is sufficient to cover any increase in cost due to changes or amendments. Goods/services provided without such verification are provided at Vendor's risk. The Vendor has no authority to bind City on any contractual matters.

12. Warranty:

Vendor warrants and guarantees to City that all goods furnished under this Purchase Order are free from defects in workmanship and materials, are merchantable, and fit for the purposes for which they are to be used. For any goods furnished under this Purchase Order which become defective within twelve (12) months (unless otherwise specified) after date of receipt by City, Vendor shall either, at City's election and to City's satisfaction, remedy any and all defects or replace the defective goods at no expense to City within seven (7) days of receipt of the defective goods or accept the defective goods for full credit and payment of any return shipping charges. Vendor shall be fully responsible for any and all warranty work, regardless of third party warranty coverage. Vendor shall furnish additional or replacement parts at the same prices, conditions and specifications delineated herein.

13. Indemnification/Limitation of Liability:

Vendor shall indemnify and hold harmless City (including but not limited to its employees, elected and appointed officials, agents and representatives) against any and all losses (including without limitation, loss of use and costs of cover), liability, damage, claims, demands, actions and/or proceedings and all costs and expenses connected therewith (including without limitation attorneys' fees) that arise out of or relate to any claim of infringement of patent, trademark, copyright, trade secret or other intellectual property right related to this Purchase Order or that are caused by or the result of any act or omission of Vendor, its agents, suppliers, employees, or representatives. Vendor's obligation shall not apply to any liability or damages which result solely from the negligence of City. Liability for claims for injuries to

persons or property arising from the acts, omissions, or negligence of the City, their departments, boards, commissions, committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, Colorado Revised Statutes § 24-10-101, et seq; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b); and the City's limitation on liability for torts, Denver Revised Municipal Code § 1.1.7.

14. Termination:

City may terminate this Master Purchase Order, in whole or in part, at any time and for any reason immediately upon written notice to Vendor. In the event of such a termination, City's sole liability shall be limited to payment of the amount due for the goods/services accepted by City. Vendor acknowledges the risks inherent in this termination for convenience and expressly accepts them. Termination by City shall not constitute a waiver of any claims City may have against Vendor.

15. Interference:

Vendor shall notify the Director of Purchasing immediately of any condition that may interfere with the performance of Vendor's obligations under this Master Purchase Order and confirm such notification in writing within twenty-four (24) hours. City's failure to respond to any such notice shall in no way act as a waiver of any rights or remedies City may possess.

16. Venue, Choice of Law and Disputes:

Venue for all legal actions shall lie in the District Court in and for City and County of Denver, State of Colorado, and shall be governed by the laws of the State of Colorado as well as the Charter and Revised Municipal Code, rules, regulations, Executive Orders, and fiscal rules of City. All disputes shall be resolved by administrative hearing, pursuant to the procedure established by D.R.M.C. § 56-106. Director of Purchasing shall render the final determination.

17. Assignment/No Third Party Beneficiary:

Vendor shall not assign or subcontract any of its rights or obligations under this Master Purchase Order without the written consent of City. In the event City permits an assignment or subcontract, Vendor shall continue to be liable under this Master Purchase Order and any permitted assignee or subcontractor shall be bound by the terms and conditions contained herein. This Master Purchase Order is intended solely for the benefit of City and Vendor with no third party beneficiaries

18. Notice:

Notices shall be made by Vendor to the Director of Purchasing and by City to Vendor at the addresses provided herein, in writing sent registered, return receipt requested.

19. Compliance With Laws:

Vendor shall observe and comply with all federal, state, county, city and other laws, codes, ordinances, rules, regulations and executive orders related to its performance under this Master Purchase Order. City may immediately terminate this Master Purchase Order, in whole or in part, if Vendor or an employee is convicted, plead nolo contendere, or admits culpability to a criminal offense of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature.

20. Insurance:

Vendor shall secure, before delivery of any goods/services, the following insurance covering all operations, goods and services provided to City. Vendor shall keep the required insurance coverage in force at all times during the term of the Master Purchase Order, or any extension thereof, during any warranty period, and for three (3) years after termination of this Master Purchase Order. The required insurance shall be underwritten by an insurer licensed to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision or endorsement requiring notification to the City in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the parties identified in the Notices section of this Agreement. Such notice shall reference the City contract number listed on the signature page of this Agreement. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, vendor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the parties identified in the Notices section by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s) and referencing the City's contract number. If any policy is in excess of a deductible or self-insured retention, City must be notified by Vendor. Vendor shall be responsible for the payment of any deductible or self-insured retention.

The insurance coverages specified in this Master Purchase Order are the minimum requirements, and these requirements do not lessen or limit the liability of Vendor. Risk Management reserves the right to require additional policies and/or limits based on agreement scope of work. Vendor shall provide a copy of this Master Purchase Order to its insurance agent or broker. Vendor may not commence services or work relating to the Master Purchase Order prior to placement of coverage. Vendor certifies that the attached certificate of insurance attached to the Master Purchase Order documents, preferably an ACORD certificate, complies with all insurance requirements of this Master Purchase Order. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Master Purchase Order shall not act as a waiver of Vendor's breach of this Master Purchase Order or any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements. Vendor's insurer shall name as Additional Insured to its Commercial General Liability and Business Auto Liability policies the City and County of Denver, its elected and appointed officials, employees and volunteers. Vendor's insurer shall waive subrogation rights against the City. All sub-contractors and sub-consultants (including independent contractors, suppliers or other entities providing goods/services required by this Master Purchase Order) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of Vendor. Vendor shall include all such entities as insureds under its policies or shall ensure that they all maintain the required coverages. Vendor shall provide proof of insurance for all such entities upon request by City. For Worker's Compensation Insurance, Vendor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 for each bodily injury occurrence claim, \$100,000 for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Vendor expressly represents to City, as a material representation upon which City is relying, that none of the Vendor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Master Purchase Order, and that any such rejections previously effected, have been revoked. Vendor shall maintain Commercial General Liability coverage with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate. Vendor shall maintain Business Auto Liability coverage with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-hired vehicles used in performing services under this Master Purchase Order. For Commercial General Liability coverage, the policy must provide the following: (i) That this Master Purchase Order is an Insured Contract under the policy; (ii) Defense costs in excess of policy limits; (iii) A severability of interests, separation of insureds or cross liability provision; and (iv) A provision that coverage is non-contributory with other coverage or self-insurance provided by City. For claims-made coverage, the retroactive date must be on or before the first date when any goods or services were provided to City. Vendor must advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Vendor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force

21. Severability:

If any provision of this Master Purchase Order, except for the provisions requiring appropriation and encumbering of funds and limiting the total amount payable by City, is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected if the intent of City and Vendor can be fulfilled.

22. Survival:

All terms and conditions of this Master Purchase Order which by their nature must survive termination/expiration shall so survive. Without limiting the foregoing, Vendor's insurance, warranty and indemnity obligations shall survive for the relevant warranty or statutes of limitation period plus the time necessary to fully resolve any claims, matters or actions begun within that period.

23. No Construction Against Drafting Party:

No provision of this Master Purchase Order shall be construed against the drafter.

24. Status of Vendor/Ownership of Work Product:

Vendor is an independent contractor retained on a contractual basis to perform services for a limited period of time as described in Section 9.1.1E(x) of the Charter of City. Vendor and its employees are not employees or officers of City

under Chapter 18 of the D.R.M.C. for any purpose whatsoever. All goods, deliverables, hardware, plans, drawings, reports, submittals and all other documents or things furnished to City by Vendor shall become and are the property of City, without restriction. Ownership rights shall include, but not be limited to the right to copy, publish, display, transfer, prepare derivative works, or otherwise use materials. Software licenses terms may be incorporated herein by an End User License Agreement signed by the Director of Purchasing. Any ‘click-wrap’ electronic acceptance or other terms and conditions not agreed to in writing by the Director of Purchasing are of no force and effect.

25. Records and Audits:

Vendor shall maintain for three (3) years after final payment hereunder, all pertinent books, documents, papers and records of Vendor involving transactions related to this Master Purchase Order, and City shall have the right to inspect and copy the same.

26. Remedies/Waiver:

No remedy specified herein shall limit any other rights and remedies of City at law or in equity. No waiver of any breach shall be construed as a waiver of any other breach.

27. No Discrimination in Employment:

In connection with the performance of work under this Master Purchase Order, the Vendor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Vendor shall insert the foregoing provision in all subcontracts.

28. Use, Possession or Sale of Alcohol or Drugs:

Vendor shall cooperate and comply with the provisions of Executive Order 94. Violation may result in City terminating this Master Purchase Order or barring Vendor from City facilities or from participating in City operations.

29. Conflict of Interest:

No employee of City shall have any personal or beneficial interest in the goods/services described in this Master Purchase Order; and Vendor shall not hire or contract for services any employee or officer of City which would be in violation of City’s Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

30. Advertising and Public Disclosure:

The Vendor shall not include any reference to the Master Purchase Order or to services performed or goods purchased pursuant to the Master Purchase Order in any of the Vendor’s advertising or public relations materials without first obtaining the written approval of the Director of Purchasing.

31. No Employment of Illegal Aliens to Perform Work Under The Agreement:

a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the “Certification Ordinance”).

b. The Vendor certifies that:

- (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
- (2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

c. The Vendor also agrees and represents that:

- (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to the Vendor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
- (4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement,

and that otherwise requires the Vendor to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.

- (5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Vendor will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.
- (6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3.

d. The Vendor is liable for any violations as provided in the Certification Ordinance. If Vendor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Vendor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Vendor from submitting bids or proposals for future contracts with the City.

32. Intellectual Property:

Any research, reports, studies, data, photographs, negatives or other documents, drawings or materials (collectively "materials") delivered by Vendor in performance of its obligations under this Master Purchase Order shall be the exclusive property of City. Ownership rights shall include, but not be limited to the right to copy, publish, display, transfer, prepare derivative works, or otherwise use materials. Software licenses terms may be incorporated herein by an End User License Agreement signed by the Director of Purchasing. Any 'click-wrap' agreement, terms of use, electronic acceptance or other terms and conditions not agreed to in writing by the Director of Purchasing are of no force and effect.

33. FEDERAL PROVISIONS:

Where the source of the funds, directly or indirectly for this Purchase Order is the Federal Government, the Vendor agrees to the applicable provisions set out below. The Vendor shall be responsible for determining which terms are applicable to its products and/or services.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE Vendor agrees to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60).

DAVIS-BACON ACT COMPLIANCE Vendor agrees to comply with the Davis-Bacon Act (40 U.S.C. 3148 to 3148) as supplemented by Department of Labor regulations (29 CFR part 5).

ANTI-KICKBACK ACT COMPLIANCE Vendor agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3).

CONTRACT WORK HOURS AND SAFETY STANDARDS Vendor agrees to comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5).

RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT Vendor agrees to comply with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

CLEAN AIR AND WATER REQUIREMENTS Vendor agrees to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et. seq.), and the Clean Water Act (33 U.S.C. 1251 et. seq.).

Vendor agrees to report each violation of these requirements to the City and understands and agrees that the City will, in turn, report each violation as required to the appropriate EPA regional office. **ENERGY CONSERVATION REQUIREMENTS** The Vendor agrees to

comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. (42 U.S.C. 6201) **NO SUSPENSION OR DEBARMENT** Vendor certifies that neither it nor its Principals or any of its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any Federal department or agency. **BYRD ANTI-LOBBYING.** If the Maximum Contract Amount exceeds \$100,000, the Vendor must complete and submit to the City a required certification form provided by the City certifying that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with obtaining any Federal contract grant of any other award covered by 31 U.S.C. 1352. Vendor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

This Master Purchase Order is acknowledged and agreed to by:

City & County of Denver, Purchasing Division

Vendor Name: ENCORE ENERGY SERVICES, INC.
(Company Name)

By: 
(Authorized Signature)

Print Name: Bret Feller

Title: Chief Operating Officer

Date: 11-11-21

By: 

Print Name: Aran D Raz

Title: Procurement Manager

Date: 11/10/2021

Supervisor Initial:

Purchase pursuant to 3.26(e)-This Mater Purchase Order agreement is contingent on Council approval and is void without such action.

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City & County of Denver, Purchasing Division

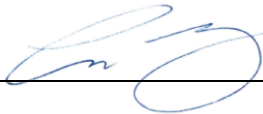
Vendor Name:

(Company Name)

By:

(Authorized Signature)

By:



Print Name:

Print Name:

Aran D Raz

Title:

Title:

Procurement Manager

Date:

Date:

11/10/2021

Supervisor Initial:

Purchase pursuant to 3.26(e)-This Mater Purchase Order agreement is contingent on Council approval and is void without such action.

EXHIBIT "A"

Supplier: Encore Energy Services Inc
 Solicitation/ Award Title: TRANSPORT NATURAL GAS CITYWIDE
 Solicitation No. /Internal File Reference Location: IFB 0366A 2021

It is recommended that you use your Supplier Contract No. SC-00006430, in all future correspondence and/or other communications.

Description of the goods, and services related thereto, being purchased and pricing:

RELATED SERVICES, TERMS AND CONDITIONS

Definitions:

Additional OFO (Operational Flow Order) Gas – During the period of an OFO, shall mean the difference between the Total Actual Natural Gas used at an Interruptible Facility and the Initial Nomination for that Interruptible Facility.

Interruptible Facilities – Shall mean the City’s facilities that receive transport natural gas under the current Utility’s Interruptible Transport (IT) Service tariff.

OFO – Operational Flow Order (OFO) shall have the meaning set forth in the Utility's rules and regulations on file with The Public Utilities Commission, as follows: “An order issued by Transporter [the Utility] as allowed by this tariff to alleviate conditions that threaten or could threaten the safe operation or integrity of Transporter’s System or to maintain operations required to provide efficient and reliable Firm Gas Transportation Service, which is issued for all or a specific portion of a Gas Day(s) and covering either a designated Operational Area, or a designated Shipper or group of Shippers within an Operational Area, that Transporter reasonably believes are causing the condition necessitating the OFO.”

Restricted Delivery Day – Shall mean a mandatory period of curtailment or interruption of natural gas usage ordered by the Utility under the Utility’s Interruptible Transport Service tariff and subject to the current Utility's rules and regulations on file with The Public Utilities Commission.

The Utility – Shall mean Xcel Energy.

Unauthorized Overrun Gas – Shall have the meaning set forth in the Utility's rules and regulations on file with The Public Utilities Commission, for all facilities on the Interruptible Industrial (IT) Transport Rate, as follows: “If, on any day when curtailment or interruption of gas usage has been ordered by Company, customer fails to curtail or shut off the use of gas when and as directed by Company and/or the total quantity of On-Peak gas taken by customer exceeds the amount contracted for, then all such gas taken after customer is directed by Company to curtail use of gas and until such time customer is authorized by Company to resume full use of gas shall constitute Unauthorized Overrun Gas. Customer shall pay \$25.00 per DTh for all such Unauthorized Overrun Gas in addition to the Commodity Charge.”

Contractor Requirements:

The Contractor shall be required to meet all local, state, and federal regulations regarding the supply of natural gas. The Contractor shall meet the specific natural gas quality and heat content requirements of the local distributor (Xcel Energy).

The Contractor shall be obligated to deliver the gas required by the City. The City will purchase the quantities of gas it requires. There shall be no "take or pay" provisions.

The Contractor may be required to assist the City in negotiations and relations with Xcel Energy, CIG, suppliers and/or other entities, to ensure smooth, reliable, and cost-effective delivery of natural gas to City facilities.

The Contractor shall provide written authorization which shall allow the City to review all Xcel Energy data relevant to City accounts. The Contractor shall provide a signed document authorizing Xcel Energy to honor City inquiries for all information relevant to natural gas transportation to City facilities. There shall be no charge to the City for this authorization or for any exercise of it.

The Contractor shall supply a sequence of interconnecting pipelines from origin, and descriptions of levels of service (Firm/Interruptible) or any reserved capacities.

The City will execute documentation, prepared by the Contractor, to notify Xcel Energy that the Contractor is the City's Shipper.

The Contractor shall provide all documentation demonstrating any reserved capacity they have rights to on Xcel Energy and CIG lines. Contractor shall indicate and guarantee the highest priority to the City facilities of this capacity compared to contractor's other customers. Contractor shall further guarantee that the City will have highest priority to Contractor's gas reserves.

Contractor will be required to perform usage analyses or statistical reporting to demonstrate, for example, comparisons to tariff gas, peak day accuracy, firming accuracy, or capacity availability. Additional analyses for the City contract, such as a savings analysis, regarding transport gas versus tariff gas, will be required to provide a full and complete understanding of the transport natural gas activity within the City.

The contractor shall "hold" the contract with Xcel Energy on the City's behalf.

Xcel Energy shall be responsible for installing and maintaining any necessary fixtures and/or facilities, including meters, up to the point of delivery. Installation, maintenance, and payment for any required telephone lines will be the City's responsibility. If the telephone lines are not repaired by Xcel Energy's deadline, in the notice provided by Contractor, then the City will pay Backup Supply rates until the telephone lines are repaired. Contractor will notify the City, immediately, when telephone line installation or repair is needed.

Delivery will be at the City Gate.

Because the Contractor is wholly responsible for the provisioning of all the gas the City actually requires, the City will not contract for any Firm Backup Supply.

The Contractor shall provide the supply of transport natural gas services for the quantity of natural gas required by the City. (Please note the consumption history in *Attachment 1*).

There will be two pricing periods: winter and summer, for both Firm and Interruptible gas.

The Contractor shall be responsible for the delivery of all quantities of gas actually required by the City. Should the City, for any reason, be required to purchase gas from any other source including Xcel Energy tariff gas, and if it is the fault of the Contractor, that the Contractor fails to provide the natural gas the City requires, then the Contractor

shall be responsible for any penalties, and the difference between the actual purchase price, between the new source of natural gas, and the transport natural gas contract price.

The Contractor agrees to bear all risk of loss, injury or destruction of goods and materials ordered as a result of this contract which occur prior to delivery to the City and County of Denver, by Xcel Energy or another delivery agent, and such loss, injury or destruction shall not release the Contractor from any obligation hereunder.

RELATED DUTIES AND ADDITIONAL SPECIFICATIONS

Nominating, Balancing and Administration:

The Contractor shall be responsible for all administrative functions necessary to successfully deliver appropriate quantities of gas into the Xcel Energy distribution system for use by City facilities.

The Contractor shall be wholly liable for all penalties, charges, and costs (including unauthorized overruns) attributable to inaccurate or untimely nominating, balancing or delivery of gas.

The City shall provide Contractor with three (3) years of historical usage and shall notify Contractor of any known physical changes in City's facilities that impact natural gas demand.

Restricted Delivery Day and Interruption Notifications - (Requested by The Utility, for Interruptible Facilities):

Upon proper notice, the City can and will shift its Interruptible Facilities to alternate fuels to accommodate restricted situations.

For any interruption or restricted delivery day notification, Contractor shall call AND email each Interruptible Facility and provide complete instructions for the times and dates to begin and end the interruption.

The Contractor shall provide a copy of its "call out" log to General Services Energy Office as soon as practical but no later than twenty-four (24) hours after a call-out is made.

Emergency call-out telephone numbers and contact personnel will be provided upon execution of the MPO/Contract.

If a curtailment or interruption of gas usage has been ordered by The Utility, subject to the terms and conditions set forth in the Utility's rules and regulations on file with The Public Utilities Commission, and the City's Interruptible Facilities fail to curtail or shut off the use of gas, when and as directed by The Utility, City shall be responsible for any Unauthorized Overrun Penalties on this Unauthorized Overrun Gas.

Operational Flow Orders (OFOs) – (Requested by The Utility, for the Contractor):

During an OFO, the City may elect to interrupt natural gas supply at its Interruptible Facilities and go to back-up fuel or continue to burn natural gas.

Upon being notified by Xcel Energy of an OFO, Contractor shall communicate the OFO notices to the City, along with what the anticipated cost of Additional OFO Gas will be for the period of the OFO.

The decision to switch to back-up fuel will be made solely by the City and may be made separately for each Interruptible Facility.

The parties shall work together and use commercially reasonable efforts to minimize the cost impact of OFOs.

During an OFO, all gas purchased for or consumed by a City Facility above its First-of-the-Month Nomination (including both Interruptible and Firm Facilities) will be billed to such facility, at a rate per DTH equal to the daily posted price, as published in Gas Daily's "Daily Price Survey" for deliveries to CIG, Rockies, for the time period in which the OFO was in effect, plus all other normally applicable charges.

In the case where Additional OFO Gas is purchased for or consumed by a City Facility, the Contractor's PDF invoices and Excel billing spreadsheet shall reflect the First-of-the-Month Nomination quantity, the quantity of Additional OFO Gas purchased or consumed, the cost for such natural gas supplies, as well as all other applicable charges.

City Reserves the Right to Burn Backup Fuel in Non-Restricted Situations:

Under mutually agreeable conditions, the City is willing to interrupt gas supply and go to back-up fuel during non-restricted situations. The decision to go to backup fuel will be made separately by each Interruptible Facility.

The Contractor is advised that the City, when it is necessary to keep stock fresh, reserves the right to burn backup fuel in lieu of natural gas.

Emergency Purchases:

The City reserves the right to purchase transport natural gas, which is required, on an emergency basis, from any source whatsoever, AND if the City's needs cannot be provided immediately by the Contractor.

If the City is caused to involuntarily leave transport gas by actions or inactions of the supplier, the supplier shall be wholly responsible for the difference in charges the City would pay for having to leave transport, and those contained in the transport natural gas contract, for the period (up to one year) the City would be required to remain off transport, even if the period exceeds the normal term of this contract.

Billing Formats and Savings Analysis Requirements:

The Contractor shall produce accurate monthly billing statements that include all the charges associated with the transport of natural gas to City facilities. This billing will also include those components for which the City has financial responsibility (e.g. loss, transport, service and facility, firm capacity, etc.).

The City requires both a PDF format and a monthly Excel spreadsheet with calculations, for each individually billed participant in the contract (See Attachment 2).

The Contractor will be required to provide a Quarterly Savings Analysis to General Services Energy Office. This is a comparison of the Contractor's contracted charges, with what the charges would have been, if the City had been using Xcel Energy tariff gas (See Attachment 3).

Contractor will be required to provide the City monthly billing information in *two formats*:

1. First, on company letterhead in the form of an invoice provided in PDF format.
2. Second, as an electronic file, in Excel spreadsheet format. (For an example of the required billingspreadsheet see Attachment 2).
3. Note: The PDF and Excel spreadsheet billing formats will be required for each of the Cityagencies participating in the MPO/Contract.
4. The Contractor will provide each independently paying agency copies of their own bills (bothPDF and electronic).
5. General Services Energy Office will receive their own PDF invoices and Excel spreadsheet.
6. In addition, General Services Energy Office will receive electronic copies of all other

agency's monthly bills, in a single Excel Summary spreadsheet. Each participant agency's monthly billing will be combined into this Summary spreadsheet so that all the meters/accounts on the contract are documented in this single spreadsheet. (See *Attachment 2*).

For the invoice on company letterhead presented in PDF format, separate invoices will be submitted for Interruptible and Firm service. Each invoice shall contain the following information:

- 1) Whether the invoice is for Interruptible or Firm service.
- 2) DTh's of natural gas consumed per facility.
- 3) DTh's of natural gas backup supply and capacity per facility, if applicable.
- 4) Invoice number and date.
- 5) Signature of Contractor.
- 6) Costs for all components necessary for transport natural gas (e.g. loss, transport, service, facilities, firm capacity, etc.).
- 7) PDQ for each firm location.

Compensation and Method of Payment – Price Locking:

At any time, the City may elect to lock in a fixed price for part or all the City's natural gas needs. Upon such request, which may be made and accepted via telephone (or other method agreed to by the Parties), the Contractor shall provide a fixed price for the volume and term requested based upon the then prevailing market conditions. Only the Manager, or his express designee, may bind the City Pursuant to this Section IV(A)(v).

COOPERATIVE PURCHASING

The City and County of Denver encourages and participates in cooperative purchasing endeavors undertaken by or on behalf of other governmental jurisdictions. To the extent other governmental jurisdictions are legally able to participate in cooperative purchasing endeavors, the City and County of Denver supports such cooperative activities. Further, it is a specific requirement of this Proposal that pricing offered herein to the City and County of Denver may be offered by the vendor to the City Aurora. The City of Aurora estimates their annual usage at 55,000 DTh, with a PDQ of 517, for 9 locations.

VENDOR PERFORMANCE MANAGEMENT:

Awarded vendors are required to furnish a performance report to the buyer on an annual basis, no later than the anniversary date of the applicable Master Purchase Order or City Contract, providing at a minimum the following information:

FOR GOODS AND RELATED SERVICES

- Total dollar value of purchases per City Agency
- Total number of transactions per City Agency

Supplier may also be required to provide additional specific reporting/data as required.

EXHIBIT "B"

Supplier: Encore Energy Services Inc
Solicitation/ Award Title: TRANSPORT NATURAL GAS CITYWIDE
Solicitation No. /Internal File Reference Location: IFB 0366A 2021

C.2 PRICE SUBMITTAL

Winter months: January, February, March, November, December

Summer months: April through October

One (1) year Proposal Pricing:

Firm:

1A Index: Premium/Discount from CIG First of Month for Firm

Transport Gas per DTh for **summer** months \$ 0.10 (Estimate to be used for evaluation purposes is 113,560 DTh)

1B Index: Premium/Discount from CIG First of Month for Firm

Transport Gas per DTh for **winter** months \$ 0.24 (Estimate to be used for evaluation purposes is 256.259 DTh)

Interruptible:

1C Index: Premium/Discount from CIG First of Month for Interruptible

Transport Gas per DTh for **summer** months \$ 0.10 (Estimate to be used for evaluation purposes is 230,924 DTh)

1D Index: Premium/Discount from CIG First of Month for Interruptible

Transport Gas per DTh for **winter** months \$ 0.24 (Estimate to be used for evaluation purposes is 333,746 DTh)

Formula

One year option:

Proposal Item 1A x 113,560 +
Proposal Item 1B x 256,259 +
Proposal Item 1C x 230,924 +
Proposal Item 1D x 333,746 = \$176,049.60 **Total One Year Price**

Do you offer a "Locking" Contract? YES

Do you offer a "Collar" option? YES

EXHIBIT "C"

Department of General Services
PURCHASING DIVISION
www.denvergov.org/purchasing
Phone: 720.913.8100



City and County of Denver
Purchasing Division
201 W. Colfax Ave.
Department 304, 11th Floor
Denver, CO 80202

Kenton Janzen
Kenton.janzen@denvergov.org

**Invitation for Bid
For Master Purchase Order Agreement**

IFB No. 0366A (2021)

TRANSPORT NATURAL GAS CITYWIDE

SCHEDULE OF EVENTS

• IFB Issued	September 8, 2021		
• Deadline to Submit Additional Questions	September 15, 2021	3:00 P.M.	Local Time
• Response to Written Questions	September 22, 2021		
• IFB Due Date	September 29, 2021	3:00 P.M.	Local Time
• Date of First Delivery of Gas	January 1, 2022		

Vendor offers to furnish to the City and County of Denver the materials, supplies, products or services requested in accordance with the specifications and subject to the Terms and Conditions described herein.

VENDOR SIGN HERE

Company
Name: _____

By: _____
(Printed or Typed Name)

Signature: _____
Signature constitutes acceptance of all Terms and Conditions listed on this form and all documents attached.

Email: _____

Phone: _____

THIS PROPOSAL MUST BE SUBMITTED ELECTRONICALLY THROUGH THE ROCKY MOUNTAIN E-PURCHASING SYSTEM (BIDNET®).

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SECTION A: GENERAL INFORMATION & PROPOSAL INSTRUCTIONS

A.1 BACKGROUND AND SCOPE

The City and County of Denver, hereinafter referred to as the City, desires to solicit proposals relating to the purchase of **TRANSPORT NATURAL GAS**.

The purpose of this proposal is to identify qualified proposers and to procure natural gas supplies for the City and County of Denver's actual needs during the term of the contract. Natural Gas usage history is listed in "Attachment 1", attached hereto. However, the master purchase order resulting from this proposal shall be to supply the City and County of Denver with its total actual transport natural gas requirements.

The consumption shown in Attachment 1, summarizes the natural gas consumption history for calendar year 2019 for the buildings included in this proposal. The 2019 natural gas consumption would be considered a "normal" consumption year and is being included here because the City's natural gas usage was greatly reduced at many locations, which use transport natural gas, since the COVID-19 pandemic began. Gas transportation for the facilities is furnished by Xcel Energy. The natural gas consumption noted is for the primary heating usages (and cooling at Denver International Airport) only; *there may be additional gas commitments at one or more facilities which are not included in this proposal.*

A.2 ROCKY MOUNTAIN E-PURCHASING (BidNet®)

The City is collaborating with Rocky Mountain E-purchasing System (BidNet®) in the advertisement and facilitation of Formal Bids and Requests for Proposals (RFP) administered by the City's General Services Purchasing Division.

It is a requirement of this Formal Bid that interested parties familiarize themselves and register with BidNet®; proposer/contractors who do not register may be considered non-responsive.

Registration with BidNet® is available at NO CHARGE and allows proposers access to view governmental bids posted on BidNet®; they offer an additional notification service option with an associated fee. It is the responsibility of the proposer/ contractor to evaluate and select the service option of their choice.

The City is not responsible for the actions or lack thereof on the part of the proposer / contractor in regards to their interaction with BidNet®, or any other third-party bid notification service in relation to this Formal Bid/RFP.

More information is available at: www.rockymountainbidsystem.com or by calling 1-800-835-4603.

A proposal opening will be held on the date, time and location specified on the cover sheet. Submitted pricing will be shared with interested persons at that time.

A.3 ELECTRONIC SUBMISSION OF PROPOSALS

Submission of proposals for this solicitation may only be done electronically through BidNet®. Proposals must be submitted at www.rockymountainbidsystem.com, no later than the date and time indicated in the proposal.

Your proposal shall consist of the following separate submittal items as defined in Section B:

- Item 1 - Signed Cover Page of this IFB
- Item 2 - Pricing Matrix – Section C.2
- Item 3 - Additional Required Information – Section C.3 (All Information Requested)
- Item 4 - Reference List – Section E.1
- Item 5 - Contract Certification Form – Section E.3
- Item 6 - Vendor Information Form – Section E.3

A.4 PROPOSAL QUESTIONS

The City shall not be bound by and the Vendor shall not request or rely on any oral interpretation or clarification of this proposal. Therefore, any questions regarding this proposal are encouraged and should be submitted in writing by email to:

City Buyer: Kenton Janzen
 E-Mail: kenton.janzen@denvergov.org

Questions received up to deadline to submit question in the Schedule of Events will be answered in writing per the Schedule of Events. Answers to questions from any Vendor will be provided to all Vendors.

All communications regarding this IFB shall only be through the City’s Analyst listed above. No communication is to be directed to any other City personnel.

A.5 ATTACHMENTS

The following attachments are included in the initial release of this Proposal:

Attachment Listing	
1	Consumption Data
2	Excel Billing Spreadsheet
3	Savings Analysis Spreadsheet

A.6 PERFORMANCE BONDS AND SURETIES

The successful vendor will be required to furnish a performance bond or, in the alternative, an irrevocable letter of credit from a local financial institution, in the amount of \$300,000.00. If a performance bond is furnished by the successful vendor, it must be executed by the owner, a general partner or, if a corporation, the secretary's signature and the seal of the corporation must be affixed.

A.7 ADDENDA

In the event it becomes necessary to revise, change, modify or cancel this IFB or to provide additional information, addenda will be issued and made available on BidNet®. It is the responsibility of the vendor to confirm that they have acquired all addenda related to this solicitation and they have reviewed/ complied with the requirements therein.

A.8 ALTERNATE RESPONSES

It is our intent to solicit proposals that afford the City the most cost efficient, technically responsive proposal for the acquisition of the subject matter of this Proposal. However, we recognize that there may be arrangements different from that requested hereunder that would offer additional benefits to the City while satisfying the applicable requirements of this Proposal. Accordingly, you may submit alternative proposals for consideration, which offer such additional benefits in addition to the requested baseline proposal. These alternatives will be evaluated in conjunction with the primary (baseline) approach for each proposal.

A.9 ACCEPTANCE PERIOD

Proposals in response to this Proposal shall indicate that they are valid for a period no less than 120 days from the closing date.

A.10 PRICING INSTRUCTIONS

All prices quoted shall be firm and fixed. Pricing shall be in the format contained in the proposal. Alternative approaches for the pricing of the requested products and services may be provided, however, such alternate approaches shall be described separately and must be in addition to the format in the pricing section. Do not include cost or price figures anywhere except in the cost and pricing section.

A.11 TECHNICAL REQUIREMENTS/STATEMENT OF WORK

Section B of this invitation contains our proposed Scope of Work and/or Technical Requirements. This document shall form the basis of a contract covering the subject matter of this IFB. Exceptions or deviations to this IFB must not be added to the bid pages but must be on vendor's letterhead and accompany bid. Any exceptions to this documentation will be taken into consideration when evaluating bids submitted. The City reserves the right to reject any or all of your proposed modifications. The City welcomes cost saving bids which still satisfy all technical and business objectives.

A.12 INVITATION FOR BID CONDITIONS AND PROVISIONS

This bid must be signed by a duly authorized official of the proposing company. The completed and signed bid (together with all required attachments) must be returned to the Department of General Services on or before the time and date of the bid opening shown on page one. This bid **MUST** be submitted electronically through the Rocky Mountain E-purchasing System (BidNet®).

All participating vendors, by their signature hereunder, shall agree to comply with all of the conditions, requirements and instructions of this IFB as stated or implied herein. Any alteration, erasure or interlineation by the vendor in this bid shall constitute cause for rejection by the Manager of General Services. Exceptions or deviations to this IFB must not be added to the bid pages but must be on vendor's letterhead and accompany bid. Should the City omit anything from this IFB which is necessary to a clear understanding of the work, or should it appear that various instructions are in conflict, then the vendor shall secure written instructions from the Manager of General Services at least forty-eight (48) hours prior to the time and date of the bid opening shown in page one.

Typographical errors in entering quotations on bid may result in loss of award of contract purchase order.

All vendors are required to complete all information requested in this IFB. Failure to do so may result in the disqualification of bid.

The City reserves the right to postpone or cancel this IFB, or reject all bids, if determined to be in the best interest of the City.

Unit price for each item proposed on shall be shown and shall be for the unit of measurement indicated. In case of error in extension of prices, the unit price will govern.

Any omissions as to the manufacturer's brand name, code or stock number, or style that is asked for shall be considered cause to reject any or all items on bid if deemed to be in the best interest of the City to do so.

The Manager of General Services reserves the right to waive any technical or formal errors or omissions and to reject any and all bids, or to award contract for the items hereon, either in part or whole, if deemed to be in the best interests of the City.

The successful vendor shall be in complete compliance with all of the specifications, terms and conditions of this IFB as outlined above. The City shall have the right to inspect the facilities and equipment of the successful vendor to ensure such compliance.

No bid shall be accepted from, and no contract will be awarded to, any person, firm or corporation that is in arrears to the City and County of Denver, upon debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to the City, or that has failed to attain or demonstrate compliance with any law, ordinance, City regulation, or contract term or condition as may be provided for or required in any City contract, or that may be deemed irresponsible or unreliable by the Manager of General Services. Vendors may be required to submit satisfactory evidence that they have a practical knowledge of the particular work bid upon and that they have the necessary financial resources to perform and complete the work outlined in this IFB.

The vendor agrees to abide by all the laws, regulations and administrative rulings of the United States, the State of Colorado and the City and County of Denver, securing all necessary licenses and permits in connection with the bids.

All materials, supplies and equipment furnished or services performed under the terms of this master purchase order shall comply with the requirements and standards specified in the Williams-Steiger Occupational Safety and Health Act of 1970 (Public Law 91-596) as well as with other applicable federal, state and local codes.

All merchandise furnished or service performed must comply with City and State Codes.

In the event that this IFB requires a formal contract to be prepared by the City and County of Denver, the successful vendor will properly sign and furnish necessary performance bonds, insurances, Workers' Compensation, etc., as required by the respective bid within ten (10) days (unless a longer period is allowed) from the date of receipt of the formal contract forms.

All vendors must take into consideration that only the City's contract documents will be used in the finalization of this agreement. This will include the total bid and the City Attorney's general form.

The City shall not be liable for any costs incurred by Vendor in the preparation of submittals or for any work performed in connection therewith or any work subsequent to the submission and prior to the execution of any contract.

A.13 GRATUITIES AND KICKBACKS

It shall be a breach of ethical standards for any person to offer, give, or agree to give any employee or former employee (within six months of termination from City employment), or for any employee or former employee (within six months of termination from City employment) to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding of application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime vendor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

In the event that any gratuities or kickbacks are offered or tendered to any City and County of Denver employee, the proposal shall be disqualified and shall not be reinstated.

A.14 NON-COLLUSIVE VENDOR CERTIFICATION

By the submission of this proposal, the vendor certifies that:

- A. The proposal has been arrived at by the vendor independently and has been submitted without collusion with any other vendor.
- B. The contents of the proposal have not been communicated by the vendor, nor, to its best knowledge and belief, by any of its employees or agents, to any person not an employee or agent of the vendor or its surety on any bond furnished herewith, and will not be communicated to any such person prior to the official opening of the proposal.
- C. No vendor shall submit more than one proposal for this purchase. It shall be the responsibility of each vendor to obtain the prior written permission of the Director of Purchasing before proposal opening in every situation in which the vendor, due to corporate association or other affiliation, may be found to be impermissibly associated with another vendor. Failure to observe this requirement could result in all such affiliated proposals being rejected.

A.15 AWARDS

Award will be made on an "all or none" basis. Prices must be shown for each item listed. Proposals submitted without individual item prices listed will be considered as non-responsive and rejected.

The criteria to be used for the bid evaluation include but are not limited to:

- (a) price
- (b) specification compliance
- (c) ability to begin January 1, 2022

Any award as a result of this IFB shall be contingent upon the execution of master purchase order. Section D of this IFB contains our proposed terms and conditions.

A.16 ENVIRONMENTAL MANAGEMENT SYSTEM, ENVIRONMENTAL POLICY, AWARENESS, AND COMPLIANCE

Some City operations can pose risks to human health and the environment. Proactive environmental management can reduce risk and prevent harm.

The City is certified to the ISO 14001 international standard for Environmental Management System (EMS). The City's EMS ensures that all aspects of City operations with the potential to cause significant environmental impacts are proactively managed. Through the EMS, the City has adopted environmental procedures to ensure compliance with environmental requirements, protect workers and the public, conserve energy and resources, and prevent pollution. The EMS reinforces the City's position that each person providing products or services to the City, the City's business partners, is responsible for conducting activities in a manner that will protect public health and the health of their employees and protect the environment. The EMS also requires business partners ensure the competency of their staff with respect to their environmental impacts and duties.

All City business partners are required by statute, regulation, and contract to comply with all federal, state, and local environmental regulations and requirements when working for the City. The City's EMS requires all City business partners to be aware of the City's Environmental Policy, be aware of the impacts their actions may have on the environment and implement practices to manage their actions in a manner that complies with environmental requirements and the City's environmental performance goals. The City's Environmental Policy, found here: <https://www.denvergov.org/files/assets/public/public-health-and-environment/documents/eq/2017-denver-environmental-policy.pdf>, outlines the City's commitment to environmental protection, continual improvement, and sustainability in all areas of City business and operations.

A.16.a Environmentally Preferable Purchasing (EPP) Guidance and Prohibitions

The City defines Environmentally Preferable products and services as having a lesser or reduced effect on human health and the environment when compared with competing products and services that serve the same purpose. The City's EPP evaluation may extend to raw materials acquisition, energy consumption in manufacturing and transport, packaging, recyclability, waste disposal, and many other factors.

Applicable EPP considerations may factor in the evaluation process of this IFB. Vendors are encouraged to describe any EPP attributes of the goods or services they offer to the City.

A.17 DISCLOSURE OF CONTENTS OF PROPOSALS

All bids become a matter of public record and a "Record" under the Colorado Open Records Act, with the exception of those specific elements in each proposal which are designated by the Vendor as Business or Trade Secrets and plainly marked "Trade Secrets", "Confidential", "Proprietary", or "Trade Secret". Items so marked shall not be disclosed unless disclosure is otherwise required under the Open Records Act. If marked items are requested under the Open Records Act, the City will use reasonable efforts to notify the Vendor of the request, and it will be the responsibility of the Vendor to appropriately redact proprietary information or the Records may be disclosed by the City, and if necessary, seek a court order to protect the Records, and to defend, indemnify, and hold harmless the City from any claim or action related to the City's non-disclosure of such information.

A.18 PROOF OF REGISTRATION WITH THE COLORADO SECRETARY OF STATE

Successful vendors that are corporations or limited liability companies will be required to furnish a Certificate of Good Standing from the Colorado Secretary of State's Office, as proof that they are properly registered to do business in the State of Colorado, prior to finalization of award and contracting.

A.19 DIVERSITY AND INCLUSIVENESS – EXECUTIVE ORDER #101**Definitions**

Diversity: Diversity refers to the extent to which a contractor/consultant has people from diverse background or communities working in its organization at all levels, is committed to providing equal access to business opportunities and achieving diversity in procurement decisions for supplies, equipment, and services, or promotes training and technical assistance to diverse businesses and communities such as mentoring and outreach programs and business engagement opportunities.

Inclusiveness: Inclusiveness, for purposes of Executive Order No. 101, includes the extent to which a contractor/consultant invites values, perspectives and contributions of people from diverse backgrounds and integrates diversity into its hiring and retention policies, training opportunities, and business development methods to provide an equal opportunity for each person to participate, contribute and succeed within the organization's workplace. Inclusiveness also includes the extent to which businesses have an equal opportunity to compete for new business opportunities and establish new business relationships in the private and public sector.

Requirements

Using the attached form, entitled "Diversity and Inclusiveness in City Solicitations Information Request Form", please state whether you have a diversity and inclusiveness program for employment and retention, procurement and supply chain activities, or customer service, and provide the additional information requested on the form. The information provided on the Diversity and Inclusiveness in City Solicitations Request Form will provide an opportunity for City contractors/consultants to describe their own diversity and inclusiveness practices. Contractors/Consultants are not expected to conduct intrusive examinations of their employees, managers, or business partners in order to describe diversity and inclusiveness measures. Rather, the City simply seeks a description of the contractor/consultant's current practices, if any.

Diversity and Inclusiveness information provided by City contractors/consultants in response to City solicitations for services or goods will be collated, analyzed, and made available in reports consistent with City Executive Order No. 101. However, no personally identifiable information provided by or obtained from contractors/consultants will be in such reports.

A completed and signed copy of the "Diversity and Inclusiveness in City Solicitations Request Form" must be included with your bid or RFP response. Failure to include this form will render your bid or RFP non-responsive. The required document is available at: <https://fs7.formsite.com/CCDenver/form341/index.html> Proposing vendors are required to fill in and submit this form online as part of their submission.

A.20 ACCEPTANCE OF PROPOSAL CONTENT

The contents of the proposal (including persons specified to implement the project) of the successful proposer will become a portion of the contractual obligations pursuant to award. Failure of the successful proposer to

accept the master purchase order as attached may result in cancellation of the award and such vendor may be removed from future solicitations.

A.21 SAMPLE MASTER PURCHASE ORDER

The sample master purchase order which the successful proposer will be required to execute is attached as Section D.

A.22 PARENT COMPANY

If a proposer is owned or controlled by a parent company, the name, main office address, and parent company's tax identification number shall be provided in the proposal.

A.23 FEDERAL PROVISIONS

Where the source of the funds, directly or indirectly for this Purchase Order is the Federal Government, the Vendor agrees to the applicable provisions set out below. The Vendor shall be responsible for determining which terms are applicable to its products and/or services.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE Contractor agrees to comply with Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR Part 60). **DAVIS-BACON ACT COMPLIANCE** Contractor agrees to comply with the Davis-Bacon Act (40 U.S.C. 3148 to 3148) as supplemented by Department of Labor regulations (29 CFR part 5). **ANTI-KICKBACK ACT COMPLIANCE** Contractor agrees to comply with the Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3). **CONTRACT WORK HOURS AND SAFETY STANDARDS** Contractor agrees to comply with Sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), as supplemented by Department of Labor regulations (29 CFR part 5) **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT** Contractor agrees to comply with 37 CFR part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. **CLEAN AIR AND WATER REQUIREMENTS** Contractor agrees to comply with all applicable standards, orders, or requirements issued under the Clean Air Act (42 U.S.C. 7401 et. seq.), and the Clean Water Act (33 U.S.C. 1251 et. seq.). Contractor agrees to report each violation of these requirements to the City and understands and agrees that the City will, in turn, report each violation as required to the appropriate EPA regional office. **ENERGY CONSERVATION REQUIREMENTS** The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. (42 U.S.C. 6201) **NO SUSPENSION OR DEBARMENT** Contractor certifies that neither it nor its Principals or any of its subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Agreement by any Federal department or agency. **BYRD ANTI-LOBBYING.** If the Maximum Contract Amount exceeds \$100,000, the Contractor must complete and submit to the City a required certification form provided by the City certifying that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with obtaining any Federal contract grant of any other award covered by 31 U.S.C. 1352. Contractor must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award.

SECTION B: SCOPE OF WORK AND TECHNICAL REQUIREMENTS

B.1 OVERVIEW

The City is seeking a contract (Master Purchase Order) for the supply of transport natural gas services for the quantity of natural gas required by the City (estimated below in Attachment 1). There will be two pricing periods: winter and summer, for Firm and Interruptible gas.

In addition, at any time the City may elect to lock in a fixed price for part or all of the City's natural gas needs. Upon such request, which may be made and accepted via telephone (or other method agreed to by the Parties), the Seller/Contractor shall provide a fixed price for the volume and term requested based upon the then prevailing market conditions. Only the Manager of General Services, or his express designee, may bind the City.

B.2 DEFINITIONS

Additional OFO (Operational Flow Order) Gas – During the period of an OFO, shall mean the difference between the Total Actual Natural Gas used at an Interruptible Facility and the Initial Nomination for that Interruptible Facility.

Interruptible Facilities – Shall mean the City's facilities that receive transport natural gas under the current Utility's Interruptible Transport (IT) Service tariff.

OFO – Operational Flow Order (OFO) shall have the meaning set forth in the Utility's rules and regulations on file with The Public Utilities Commission, as follows: "An order issued by Transporter [the Utility] as allowed by this tariff to alleviate conditions that threaten or could threaten the safe operation or integrity of Transporter's System or to maintain operations required to provide efficient and reliable Firm Gas Transportation Service, which is issued for all or a specific portion of a Gas Day(s) and covering either a designated Operational Area, or a designated Shipper or group of Shippers within an Operational Area, that Transporter reasonably believes are causing the condition necessitating the OFO."

Restricted Delivery Day – Shall mean a mandatory period of curtailment or interruption of natural gas usage ordered by the Utility under the Utility's Interruptible Transport Service tariff and subject to the current Utility's rules and regulations on file with The Public Utilities Commission.

The Utility – Shall mean Xcel Energy.

Unauthorized Overrun Gas – Shall have the meaning set forth in the Utility's rules and regulations on file with The Public Utilities Commission, for all facilities on the Interruptible Industrial (IT) Transport Rate, as follows: "If, on any day when curtailment or interruption of gas usage has been ordered by Company, customer fails to curtail or shut off the use of gas when and as directed by Company and/or the total quantity of On-Peak gas taken by customer exceeds the amount contracted for, then all such gas taken after customer is directed by Company to curtail use of gas and until such time customer is authorized by Company to resume full use of gas shall constitute Unauthorized Overrun Gas. Customer shall pay \$25.00 per DTh for all such Unauthorized Overrun Gas in addition to the Commodity Charge."

B.3 CONTRACTOR REQUIREMENTS

1. **Secretary of State Registration** - Company must provide evidence that they are registered to do business with the Secretary of State in Colorado. Please put Secretary of State number in submittal.
2. **Experience** - Company must provide evidence that they have at least 3 years continuous experience, prior to the date of their proposal:
 - a. Operating within the Xcel Energy transportation system
 - b. With their familiarity with Xcel Energy's Transportation procedures, daily/monthly penalties
 - c. With their existing/proven contacts at Xcel Energy

- d. With their familiarity with the intricacies of the upstream pipeline network
3. **Monthly Excel Billing Spreadsheet** - Company must provide an Example Excel Billing Spreadsheet with the same data elements as the sample provided in Attachment #2. (A monthly Excel billing spreadsheet, for all meters on the contract, must be provided for the duration of the contract.)
 4. **Quarterly Savings Analysis** - Company must provide an Example Quarterly Saving Analysis with the same data elements as the sample provided. A Sample of what is expected is in Attachment #3. (A detailed quarterly savings analysis, for all meters on the contract, comparing the total cost of transporting with the total cost of getting natural gas from Xcel Energy, must be provided for the duration of the contract.)
 5. **Transportation Services** - Company must provide evidence of the following:
 - a. Their ability and capacity to provide transport natural gas to a client who has a minimum annual usage of 500,000 DTh's per year.
 - b. Their ability to perform all scheduling, nominating, balancing, and billing, for a client with a minimum annual usage of 500,000 DTh's per year.
 - c. NOTE: Evidence for each of these two requirements may be in the form of 12 months' worth of redacted invoices for a contract/client that has an annual usage of at least 500,000 DTh's per year.
 6. **Contract History** - Company must attest that in the last 5 years:
 - a. They have not been Suspended, Terminated or Revoked by Xcel Energy from providing Gas Transportation services in Colorado on the Xcel Pipeline, and
 - b. That they have not been released from a contract for cause.
 7. **Corporate Credit Rating** - Company must provide their corporate credit rating of at least BBB- (outlook stable) by Standard & Poor's Financial Services LLC ("S&P") or at least Baa3 (outlook stable) by Moody's Investor Service ("Moody's") or equivalent rating from a nationally recognized statistical rating organization.
 8. **Performance Bond** - Company must provide evidence of their ability to provide the City a \$300,000 Performance Bond. (This Bond must be provided to Purchasing before the MPO will be awarded.)
 9. **Scope of Work** - Company must attest that they will abide by and perform all City requirements outlined in Section B (Scope of Work/Technical Requirements) of this Invitation for Bid.
 10. **References** - Company must provide (3) References:
 - a. One contract/client with at least 500,000 DTh of Natural Gas Use annually where Company has provided Natural Gas for a minimum of one year.
 - b. One contract/client with at least 20 locations.
 - c. One contract/client that Company has serviced for a minimum of 2 years.
 11. **Company Information** -
 - a. Company must provide the date when the firm was organized, and/or incorporated.
 - b. Company must include a copy of the firm's annual report or financial statement.
 12. **Company Personnel** -
 - a. Company must provide a statement of qualifications for all Personnel.
 - b. These statements must include:
 - i. Principal Contract Manager: List the name of the Principal Contract manager responsible for overall implementation of the contract and key contact for technical aspects of the contract. Even though there may be co-Contract Managers, identify the Principal Contract Manager who will be responsible for the overall implementation of any awarded contract. Discuss the qualifications, experience, and accomplishments of the Principal Contract Manager.
 - ii. A description of organizational and staff experience that describes proposed staff's qualifications and experience to perform the work described in these Minimum Qualifications.

- iii. Performance history and resumes of proposed staff who will be performing the work for the City contract.

Before the Master Purchase Order is issued to the apparent best proposer, the above qualifications must be met/demonstrated to appropriate City Personnel.

Additionally, the final master purchase order must be approved by the City Council acting by Ordinance and in accordance with §3.2.6 (e) of the Charter of the City and County of Denver which sets out that any contract which will require the payment by the City of \$500,000.00 or more shall require the approval of the City Council. If ordinance approval is not gained, a re-bid of the contract shall be required.

B.4 ADDITIONAL REQUIREMENTS/PROVISIONS

The Contractor shall be required to meet all local, state, and federal regulations regarding the supply of natural gas. The Contractor shall meet the specific natural gas quality and heat content requirements of the local distributor (Xcel Energy).

The Contractor shall be obligated to deliver the gas required by the City. The City will purchase the quantities of gas it requires. There shall be no "take or pay" provisions.

The Contractor may be required to assist the City in negotiations and relations with Xcel Energy, CIG, suppliers and/or other entities, to ensure smooth, reliable, and cost-effective delivery of natural gas to City facilities.

The Contractor shall provide written authorization which shall allow the City to review all Xcel Energy data relevant to City accounts. The Contractor shall provide a signed document authorizing Xcel Energy to honor City inquiries for all information relevant to natural gas transportation to City facilities. There shall be no charge to the City for this authorization or for any exercise of it.

The Contractor shall supply a sequence of interconnecting pipelines from origin, and descriptions of levels of service (Firm/Interruptible) or any reserved capacities.

The City will execute documentation, prepared by the Contractor, to notify Xcel Energy that the Contractor is the City's Shipper.

The Contractor shall provide all documentation demonstrating any reserved capacity they have rights to on Xcel Energy and CIG lines. Contractor shall indicate and guarantee the highest priority to the City facilities of this capacity compared to contractor's other customers. Contractor shall further guarantee that the City will have highest priority to Contractor's gas reserves.

Contractor will be required to perform usage analyses or statistical reporting to demonstrate, for example, comparisons to tariff gas, peak day accuracy, firming accuracy, or capacity availability. Additional analyses for the City contract, such as a savings analysis, regarding transport gas versus tariff gas, will be required to provide a full and complete understanding of the transport natural gas activity within the City.

The contractor shall "hold" the contract with Xcel Energy on the City's behalf.

The Contractor shall be responsible for installing and maintaining any necessary fixtures and/or facilities, including meters, up to the point of delivery. Installation, maintenance, and payment for any required telephone lines will be the City's responsibility. Contractor will notify the City, immediately, when telephone line installation or repair is needed.

Delivery will be at the City Gate per location.

Because the Contractor is wholly responsible for the provisioning of all the gas the City actually requires, the City will not contract for any Firm Backup Supply.

The Contractor shall provide the supply of transport natural gas services for the quantity of natural gas required by the City. (Please note the consumption history in Attachment 1).

There will be two pricing periods: winter and summer, for both Firm and Interruptible gas.

The Contractor shall be responsible for the delivery of all quantities of gas actually required by the City. Should the City, for any reason, be required to purchase gas from any other source including Xcel Energy tariff gas, the Contractor shall be responsible for any penalties, and the difference between the actual purchase price, between the new source of natural gas, and the transport natural gas contract price.

The Contractor agrees to bear all risk of loss, injury or destruction of goods and materials ordered as a result of this contract which occur prior to delivery to the City and County of Denver, by Xcel Energy or another delivery agent, and such loss, injury or destruction shall not release the Contractor from any obligation hereunder.

City Reserves the Right to Burn Backup Fuel in Non-Restricted Situations:

Under mutually agreeable conditions, the City is willing to interrupt gas supply and go to back-up fuel during non-restricted situations. The decision to go to backup fuel will be made separately by each Interruptible Facility.

The Contractor is advised that the City, when it is necessary to keep stock fresh, reserves the right to burn backup fuel in lieu of natural gas.

Emergency Purchases:

The City reserves the right to purchase transport natural gas, which is required, on an emergency basis, from any source whatsoever, AND if the City's needs cannot be provided immediately by the Contractor.

If the City is caused to involuntarily leave transport gas by actions or inactions of the supplier, the supplier shall be wholly responsible for the difference in charges the City would pay for having to leave transport, and those contained in the transport natural gas contract, for the period (up to one year) the City would be required to remain off transport, even if the period exceeds the normal term of this contract.

B.5 RELATED DUTIES AND ADDITIONAL SPECIFICATIONS

Nominating, Balancing and Administration:

The Contractor shall be responsible for all administrative functions necessary to successfully deliver appropriate quantities of gas into the Xcel Energy distribution system for use by City facilities.

The Contractor shall be wholly liable for all penalties, charges, and costs (including unauthorized overruns) attributable to inaccurate or untimely nominating, balancing or delivery of gas.

The City shall provide Contractor with three (3) years of historical usage and shall notify Contractor of any known physical changes in City's facilities that impact natural gas demand.

Restricted Delivery Day and Interruption Notifications - (Requested by The Utility, for Interruptible Facilities):

Upon proper notice, the City can and will shift its Interruptible Facilities to alternate fuels to accommodate restricted situations.

For any interruption or restricted delivery day notification, Contractor shall call AND email each Interruptible Facility and provide complete instructions for the times and dates to begin and end the interruption.

The Contractor shall provide a copy of its "call out" log to General Services Energy Office as soon as practical but no later than twenty-four (24) hours after a call-out is made.

Emergency call-out telephone numbers and contact personnel will be provided upon execution of the MPO/Contract.

If a curtailment or interruption of gas usage has been ordered by The Utility, subject to the terms and conditions set forth in the Utility's rules and regulations on file with The Public Utilities Commission, and the City's Interruptible Facilities fail to curtail or shut off the use of gas, when and as directed by The Utility, City shall be responsible for any Unauthorized Overrun Penalties on this Unauthorized Overrun Gas.

Operational Flow Orders (OFOs) – (Requested by The Utility, for the Contractor):

Upon proper notice, at its Interruptible Facilities, the City may elect to interrupt natural gas supply during an OFO and go to back-up fuel.

The Contractor shall give each Interruptible Facility at the City, Advanced Notice of the Contractor's need to purchase Additional OFO Gas, as well as the proposed Unit Cost of the incremental Additional OFO Gas.

The decision to switch to backup fuel will be made solely by the City and may be made separately for each Interruptible Facility.

The parties shall use commercially reasonable efforts to minimize the cost impact of OFOs.

If a City's Interruptible Facility, after receiving proper notice from the Contractor, elects NOT to switch to a back-up fuel during an OFO, Contractor shall be entitled to bill that Interruptible Facility for the Additional OFO Gas used by that Interruptible Facility. The Interruptible Facility will be billed at a rate per DTh equal to the Actual Unit Cost per DTh that the Contractor paid for the Additional OFO Gas, plus all other normally applicable charges.

In the case where Additional OFO Gas is purchased by the Contractor for an Interruptible Facility, the Contractor's PDF invoices and Excel billing spreadsheet shall reflect the Initial Nomination quantity, the quantity of Additional OFO Gas purchased, and the actual cost paid by Contractor for the Initial Nomination and the Additional OFO Gas purchased, as well as all other applicable charges.

Billing Formats and Savings Analysis Requirements:

The Contractor shall produce accurate monthly billing statements that include all the charges associated with the transport of natural gas to City facilities. This billing will also include those components for which the City has financial responsibility (e.g. loss, transport, service and facility, firm capacity, etc.).

The City requires both a PDF format and a monthly Excel spreadsheet with calculations, for each individually billed participant in the contract (See Attachment 2).

The Contractor will be required to provide a Quarterly Savings Analysis to General Services Energy Office. This is a comparison of the Contractor's contracted charges, with what the charges would have been, if the City had been using Xcel Energy tariff gas (See Attachment 3).

Contractor will be required to provide the City monthly billing information in two formats:

1. First, on company letterhead in the form of an invoice provided in PDF format.
2. Second, as an electronic file, in Excel spreadsheet format. (For an example of the required billing spreadsheet see *Attachment 2*).
3. Note: The PDF and Excel spreadsheet billing formats will be required for each of the City agencies participating in the MPO/Contract.
4. The Contractor will provide each independently paying agency copies of their own bills (both PDF and electronic).
5. General Services Energy Office will receive their own PDF invoices and Excel spreadsheet.
6. In addition, General Services Energy Office will receive electronic copies of all other agency's monthly bills, in a single Excel Summary spreadsheet. Each participant agency's monthly billing will be combined into this Summary spreadsheet so that all the meters/accounts on the contract are documented in this single spreadsheet. (See *Attachment 2*).

For the invoice on company letterhead presented in PDF format, separate invoices will be submitted for Interruptible and Firm service. Each invoice shall contain the following information:

- 1) Whether the invoice is for Interruptible or Firm service.
- 2) DTh's of natural gas consumed per facility.
- 3) DTh's of natural gas backup supply and capacity per facility, if applicable.
- 4) Invoice number and date.
- 5) Signature of Contractor.
- 6) Costs for all components necessary for transport natural gas (e.g. loss, transport, service, facilities, firm capacity, etc.).
- 7) PDQ for each firm location.

Compensation and Method of Payment – Price Locking:

At any time, the City may elect to lock in a fixed price for part or all the City’s natural gas needs. Upon such request, which may be made and accepted via telephone (or other method agreed to by the Parties), the Contractor shall provide a fixed price for the volume and term requested based upon the then prevailing market conditions. Only the Manager, or his express designee, may bind the City Pursuant to this Section IV(A)(v).

B.6 EMERGENCY PURCHASES

The City reserves the right to purchase transport natural gas, which is required, on an emergency basis, from any source whatsoever, AND if the City’s needs cannot be provided immediately by the Contractor.

If the City is caused to involuntarily leave transport gas by actions or inactions of the supplier, the supplier shall be wholly responsible for the difference in charges the City would pay for having to leave transport, and those contained in the transport natural gas contract, for the period (up to one year) the City would be required to remain off transport, even if the period exceeds the normal term of this contract.

B.7 EMERGENCY 24-HOUR SERVICES

Emergency twenty-four (24) hour service is to be provided by contractor at no additional cost. The name and phone number of the individual(s) to contact for emergency service shall be furnished to the City on separate company letterhead attached to this proposal.

This service requires a live telephone answering service with the capability of immediately contacting operating personnel at all times. Recorded telephone answering service is not acceptable.

B.8 ESTIMATED QUANTITIES

The approximate quantities indicated for the material or equipment outlined herein are estimated as closely as possible. However, the City neither states nor implies any guarantee that actual purchases will equal the estimate. It is the intent of this proposal that the City will be supplied with more or less of the material or equipment according to actual needs.

B.9 COOPERATIVE PURCHASING

The City and County of Denver encourages and participates in cooperative purchasing endeavors undertaken by or on behalf of other governmental jurisdictions. To the extent other governmental jurisdictions are legally able to participate in cooperative purchasing endeavors, the City and County of Denver supports such cooperative activities. Further, it is a specific requirement of this Proposal that pricing offered herein to the City and County of Denver may be offered by the vendor to the City Aurora. The City of Aurora estimates their annual usage at 55,000 DTh, with a PDQ of 517, for 9 locations.

The vendor(s) must deal directly with any governmental agency concerning the placement of purchase orders, freight charges for destinations outside of the Denver Metro area, contractual disputes, invoicing, and payment. The City and County of Denver shall not be liable for any costs, damages incurred by any other entity.

B.10 VENDOR PERFORMANCE MANAGEMENT

Awarded vendors are required to furnish a performance report to the buyer on an annual basis, no later than the anniversary date of the applicable Master Purchase Order or City Contract, providing at a minimum the following information:

FOR GOODS

- Total dollar value of purchases per City Agency
- Total number of transactions per City Agency

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SECTION C: BID SUBMITTAL

C.1 PRICING

All prices quoted shall be firm and fixed for the contract period.

Upon identification by the City of those proposers qualified to present pricing, the qualified proposer shall specify all prices in dekatherms (DTh). All prices shall include all charges up to the City Gate.

The City is exempt from taxes and franchise fees.

Proposers shall provide separate pricing for winter and summer months. Winter months shall include January, February, March, November, and December. Summer months shall include April, May, June, July, August, September, and October.

For each type month (winter/summer), proposer shall provide pricing for Firm and Interruptible gas as follows:

- 1) Premium/Discount from CIG first of month for Firm gas.
- 2) Premium/Discount from CIG first of month for Interruptible gas.
- 3) In addition, at any time the City may elect to lock in a fixed price for part or all of the City's natural gas needs. Upon such request, which may be made and accepted via telephone (or other method agreed to by the Parties), the Seller/Contractor shall provide a fixed price for the volume and term requested based upon the then prevailing market conditions. Only the Manager of General Services, or his express designee, may bind the City.

NOTE: Actual usages (where available) for calendar year 2019 are 934,489 DTh combined for Firm and Interruptible. The City may use more or less than this amount as the actual need warrants.

Prices should be inclusive of ALL CHARGES for delivery to the CITY GATE. The City will pay for: loss, transport, service and facilities and Firm Capacity occurring between the City Gate and our burner tip.

Pricing MUST address both Firm and Interruptible as well as Summer and Winter charges.

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C.2 PRICE SUBMITTAL

Winter months: January, February, March, November, December

Summer months: April through October

One (1) year Proposal Pricing:

Firm:

1A Index: Premium/Discount from CIG First of Month for Firm

Transport Gas per DTh for **summer** months \$ _____ (Estimate to be used for evaluation purposes is 113,560 DTh)

1B Index: Premium/Discount from CIG First of Month for Firm

Transport Gas per DTh for **winter** months \$ _____ (Estimate to be used for evaluation purposes is 256.259 DTh)

Interruptible:

1C Index: Premium/Discount from CIG First of Month for Interruptible

Transport Gas per DTh for **summer** months \$ _____ (Estimate to be used for evaluation purposes is 230,924 DTh)

1D Index: Premium/Discount from CIG First of Month for Interruptible

Transport Gas per DTh for **winter** months \$ _____ (Estimate to be used for evaluation purposes is 333,746 DTh)

Formula

One year option:

Proposal Item 1A x 113,560 +
Proposal Item 1B x 256,259 +
Proposal Item 1C x 230,924 +
Proposal Item 1D x 333,746 = _____ **Total One Year Price**

Do you offer a “Locking” Contract? YES / NO

Do you offer a “Collar” option? YES / NO