

R-2008-8-11-3
A RESOLUTION
OF CITY OF CAMILLA

APPROVING THE SECOND AMENDMENT TO GAS SUPPLY CONTRACT AND THE FIRST AMENDMENT TO GAS PORTFOLIO III PROJECT SUPPLEMENTAL CONTRACT, EACH BETWEEN CITY OF CAMILLA ("MEMBER") AND THE MUNICIPAL GAS AUTHORITY OF GEORGIA; AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE OF SUCH AMENDMENTS; AND FOR OTHER PURPOSES

WHEREAS, the 1987 Session of the General Assembly of the State of Georgia adopted the Municipal Gas Authority of Georgia Act (Ga. Laws 1987, p. 745 *et seq.* (codified at O.C.G.A. Sections 46-4-80 through 46-4-125)), as amended (the "Act"), creating the Municipal Gas Authority of Georgia (the "Gas Authority"), providing for its organization and purposes and authorizing it to contract with certain municipalities and other political subdivisions for the provision of an adequate and dependable wholesale supply of gas to meet the needs of the gas distribution systems of such political subdivisions; and

WHEREAS, the Gas Authority and the Member have entered into that certain Gas Supply Contract, as amended (the "Gas Supply Contract"), pursuant to which the Gas Authority has agreed to provide gas supplies to the Member for resale to its citizens, inhabitants and customers through its gas distribution system; and

WHEREAS, the Gas Authority and the Member have entered into a Supplemental Contract respecting the Gas Authority's Gas Portfolio III Project to provide for, among other things, (i) the approval of said Project as contemplated by the Gas Supply Contract and as more particularly described therein; and (ii) the issuance of Bonds to fund Project Costs, as more particularly described therein (the "Supplemental Contract"); and

WHEREAS, the Gas Authority and the Member have determined that it is in the best interest of the Gas Authority and the Member to amend certain provisions of the Gas Supply Contract and the Supplemental Contract in order to increase the aggregate principal amount of Bonds permitted to be issued thereunder, to extend the period during which such Bonds may be issued, and to extend the terms of such Bonds together with other confirming changes; and

WHEREAS, the Gas Authority and the Member have caused to be prepared a Second Amendment to Gas Supply Contract, dated as of December 1, 2008 (the "Second Amendment"), and a First Amendment to Supplemental Contract, dated as of December 1, 2008 (the "First Amendment," and together with the Second Amendment, the "Amendments"), to effect such amendments; and

NOW, THEREFORE, be it resolved by the governing body of the Member in meeting duly assembled, and it is hereby resolved by authority thereof, as follows:

Section 1. The Member hereby finds and determines that it is in its best interest to contract with the Gas Authority pursuant to O.C.G.A. Section 46-4-96(7) and the terms of the Gas Supply Contract, the Supplemental Contract and the Amendments and the Member hereby declares, in accordance with the Act, its intention to continue to so contract with the Gas Authority for the purchase of its gas supply.

Section 2. The Member hereby approves and authorizes the execution, delivery and performance of the Amendments in substantially the form of the drafts thereof attached to this Resolution as Exhibit "A" and Exhibit "B," respectively, and hereby incorporated herein by reference, subject to such changes, additions and deletions made in the discretion of the Mayor of the Member, with advice of counsel. The Amendments shall each be executed by the Mayor, attested by the Clerk, and shall have the Member's seal affixed thereto, and shall be delivered to the Gas Authority, and when so executed and delivered, shall be binding upon the Member in accordance with their respective terms. Execution of the Amendments as authorized herein shall be conclusive evidence of the Member's approval thereof.

Section 3. The Member hereby authorizes the Mayor and the Clerk, or any Assistant Clerk, to take any further actions and execute and deliver any other documents necessary to carry out the purpose of this Resolution, as amended from time to time, including, but not limited to, executing all documents necessary for validation and issuance of the Gas Authority's revenue bonds respecting the Gas Portfolio III Project.

Section 4. In the adoption of this Resolution, the Member hereby recognizes that this action will be relied upon by other municipalities and systems that own and operate gas distribution systems and that adopt similar resolutions in furtherance of the organization of the Gas Authority under the Act, and that the Member is also relying upon the adoption of such resolutions by such other municipalities and systems.

Section 5. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

RESOLVED this 11 day of August, 2008.

CITY OF CAMILLA

By: Mary Jo Hayward
Mayor

[SEAL]

Attest:

Karyn A. Baker
Clerk

Exhibit “A”

[Attach Second Amendment]

Exhibit “B”

[Attach First Amendment]

CERTIFICATION

I, the undersigned, Clerk of the CITY OF CAMILLA (the "Member"), DO HEREBY CERTIFY that the foregoing pages of typewritten matter constitute a true and correct copy of the Resolution duly adopted by the governing body of the Member at a meeting held on the 11 day of August, 2008, duly called and open to the public in compliance with the laws of the State of Georgia, at which a quorum was present and acting throughout, the original of which Resolution has been duly recorded in the Minute Book of the Member, which is in my custody and control, and that the Resolution has not been rescinded or modified and is now in full force and effect.

GIVEN under the seal of the Member this 11 day of August, 2008.

Karyn N. Becker
Clerk

[SEAL]

**FIRST AMENDMENT TO SUPPLEMENTAL CONTRACT
(GAS PORTFOLIO III PROJECT)**

Between

MUNICIPAL GAS AUTHORITY OF GEORGIA

and

CITY OF CAMILLA

This **FIRST AMENDMENT TO SUPPLEMENTAL CONTRACT (GAS PORTFOLIO III PROJECT)**, made and entered into as of December 1, 2008, by and between **MUNICIPAL GAS AUTHORITY OF GEORGIA**, a public body corporate and politic, a public corporation and an instrumentality of the State of Georgia (the "Gas Authority"), created by and existing under the provisions of Ga. Laws 1987, p. 745 *et seq.*, codified at O.C.G.A. Sections 46-4-80 through 46-4-125, as amended (the "Act"), and the **CITY OF CAMILLA**, a municipal corporation of the State of Georgia (the "Member"),

**WITNESSETH
THAT:**

WHEREAS, the Member owns and operates a gas distribution system as contemplated by O.C.G.A. Section 46-4-100 and has determined to contract with the Gas Authority pursuant to the Act and Article IX, Section III, Paragraph I of the Constitution of the State of Georgia (the "Intergovernmental Contracts Clause"); and

WHEREAS, the Gas Authority and the Member have entered into that certain Gas Supply Contract (the "Gas Supply Contract"), pursuant to which the Gas Authority has agreed to provide gas supplies to the Member for resale to its citizens, inhabitants and customers through its gas distribution system; and

WHEREAS, the Gas Authority has also entered into contracts in substantially the form of the Gas Supply Contract (each, a "Gas Supply Contract" and collectively, the "Gas Supply Contracts") with other municipalities and systems that own and operate gas distribution systems (each, a "Member" and collectively, the "Members"); and

WHEREAS, the Gas Authority and the Members have determined to extend the term of their respective Gas Supply Contracts for an additional 15 years beyond the termination date of December 31, 2025 to December 31, 2040; and

WHEREAS, the Gas Authority and the Member have entered into a Supplemental Contract respecting the Gas Authority's Gas Portfolio III Project to provide for, among other things, (i) the approval of said Project as contemplated by the Gas Supply Contract

and as more particularly described therein; and (ii) the issuance of Bonds to fund Project Costs, as more particularly described therein (the "Supplemental Contract"); and

WHEREAS, the Gas Authority and the Members have determined that it is in the best interest of the Gas Authority and the Members to amend certain provisions of the respective Supplemental Contracts in order to increase the aggregate principal amount of Bonds permitted to be issued thereunder, to extend the period during which such Bonds may be issued, and to extend the terms of such Bonds together with other confirming changes; and

WHEREAS, Section 703 of the Supplemental Contract provides that, subject to the terms of the Bond Resolution (defined in the Supplemental Contract), the Supplemental Contract may be amended by instrument in writing executed with the same formality as the Supplemental Contract; and

WHEREAS, pursuant to Section 705 of the Gas Supply Contract, the Member has acknowledged and agreed that the Gas Authority may assign and pledge to any person to whom amounts are owing under Authorized Debt (defined in the Gas Supply Contract) its right, title and interests in and to all or any portion of the payments to be made to the Gas Authority under the provisions of the Gas Supply Contract and any Supplemental Contracts; and

WHEREAS, the Member has acknowledged pursuant to Section 405 of the Supplemental Contract that all payments to be made by the Member pursuant to the provisions of such Article IV of the Supplemental Contract shall be pledged to secure the payment of the Gas Authority's Bonds; and

WHEREAS, the Gas Authority has heretofore adopted its Gas Revenue Bond Resolution (Gas Portfolio III Project) on December 13, 2002, as amended and restated on January 26, 2003, as amended and supplemented (the "Bond Resolution"), and Section 5.10 of the Bond Resolution permits amendments to be made to the Supplemental Contract, provided that such amendments do not reduce the payments required thereunder or in any manner impair or adversely affect the rights of the Gas Authority thereunder or the rights or security of the bondholders or other parties secured under the Bond Resolution; and

WHEREAS, the Gas Authority and the Member have caused to be prepared this First Amendment to Supplemental Contract, dated as of December 1, 2008 (the "First Amendment"); and

WHEREAS, the holders of the Bonds and the Trustee under the Bond Resolution have consented to the execution of this First Amendment;

NOW, THEREFORE: For and in consideration of the premises and mutual covenants and agreements herein contained, the parties hereby agree as follows:

Section 1. **Amendment.** (a) Section 102(c)(3) of the Supplemental Contract, the definition of the term "Bonds," is hereby amended by adding the phrase "together with any payment obligations under any gas production sharing or other agreements providing for the acquisition, ownership, operation, hedging and financing of natural gas reserves or interests therein, either by the Gas Authority alone or jointly with other governmental entities" at the end of such definition prior to the period, such Section, as amended, to read in its entirety as follows:

"'Bonds' shall mean the Bonds or other debt instruments issued by the Gas Authority pursuant to the provisions of the Bond Resolution to finance or refinance the Project Costs, whether or not any issue of such Bonds shall be subordinated as to payment to any other issue of such Bonds, and shall include refunding Bonds issued pursuant to the provisions of Section 302 hereof together with any payment obligations under any gas production sharing or other agreements providing for the acquisition, ownership, operation, hedging and financing of natural gas reserves or interests therein, either by the Gas Authority alone or jointly with other governmental entities."

(b) Section 301 of the Supplemental Contract is hereby amended by deleting such section in its entirety and inserting in lieu thereof the following language:

"Section 301. Issuance of Bonds.

Pursuant to the authority hereof, the Gas Authority is authorized to issue, in series as may be determined by the Gas Authority, Bonds pursuant to the Bond Resolution for the purpose of financing Project Costs. The Bonds may be issued in series through the close of business on December 31, 2014, with a maximum principal amount outstanding at any one time of \$1,500,000,000; provided, however, that such limitation shall not apply to any price or interest rate hedges or swap agreements entered into in connection with projects financed by any such Bonds. Each series of Bonds shall have a final maturity not in excess of 15 years from the date of issuance of each such series of Bonds."

(c) Section 401 of the Supplemental Contract and the Schedule of Obligation Shares referenced in such Section and attached to the Supplemental Contract are hereby amended by deleting such Schedule of Obligation Shares in its entirety and inserting in lieu thereof the Revised Schedule of Obligation Shares attached hereto as Exhibit A and incorporated herein by this reference.

Section 2. **Miscellaneous.** This First Amendment shall be read and taken together with the Supplemental Contract as one and the same instrument. The Supplemental Contract, as amended by this First Amendment, is hereby ratified and affirmed in all respects. This First Amendment is effective as of the date of execution

hereof. This First Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this First Amendment as of the date first above written.

**MUNICIPAL GAS AUTHORITY OF
GEORGIA**

APPROVED AS TO FORM:

BY: _____
CHAIRMAN

GENERAL COUNSEL

ATTEST: _____
ASST. SECRETARY-TREASURER

(SEAL)

[SIGNATURES CONTINUED ON NEXT PAGE]

CITY OF CAMILLA

APPROVED AS TO FORM:

BY: Mary J. Layman
MAYOR

Patricia M. [Signature]
CITY ATTORNEY

ATTEST: Karen N. Decker
CLERK

(SEAL)

MUNICIPAL GAS AUTHORITY OF GEORGIA

**REVISED SCHEDULE OF OBLIGATION SHARE PERCENTAGES FOR
MEMBERS PARTICIPATING IN GAS PORTFOLIO III PROJECT**

[TO BE PROVIDED]

SECOND AMENDMENT TO GAS SUPPLY CONTRACT

Between

MUNICIPAL GAS AUTHORITY OF GEORGIA

and

CITY OF CAMILLA

This **SECOND AMENDMENT TO CONTRACT**, made and entered into as of December 1, 2008, by and between **MUNICIPAL GAS AUTHORITY OF GEORGIA**, a public body corporate and politic, a public corporation and an instrumentality of the State of Georgia (the "Gas Authority"), created by and existing under the provisions of Ga. Laws 1987, p. 745 *et seq.*, codified at O.C.G.A. Sections 46-4-80 through 46-4-125, as amended (the "Act"), and the **CITY OF CAMILLA**, a municipal corporation of the State of Georgia (the "Member"),

WITNESSETH THAT:

WHEREAS, the Member owns and operates a gas distribution system as contemplated by Section 46-4-100 of the Act and has determined to contract with the Gas Authority pursuant to the Act and the Intergovernmental Contracts Clause of the Constitution of the State of Georgia, Article IX, Section III, Paragraph I (the "Intergovernmental Contracts Clause"); and

WHEREAS, the Gas Authority and the Member have heretofore entered into a Gas Supply Contract terminating on December 31, 2025, subject to certain rights of the Member to elect Resigning Member Status, as defined in the Gas Supply Contract; and

WHEREAS, the Gas Authority has also entered into contracts in substantially the form of the Gas Supply Contract (each, a "Gas Supply Contract," and collectively, the "Gas Supply Contracts") with other municipalities that own and operate gas distributions systems (each, a "Member," and collectively, the "Members"); and

WHEREAS, the Gas Authority and the Members are contemplating the acquisition of long-term gas supplies or contract rights that may have contract terms expiring after the current expiration date of the Gas Supply Contracts; and

WHEREAS, the Intergovernmental Contracts Clause permits any county, municipality, or other political subdivision of the State to contract for any period not exceeding fifty years with each other or with any other public agency, public corporation, or public authority for joint services, for the provision of services or for the joint or separate use of facilities or equipment that the contracting parties are authorized by law to undertake or provide; and

WHEREAS, the Gas Authority and the Member have determined that it is in the best interest of the Gas Authority and its Members to provide for the extension of the term of the Gas Supply Contract for an additional 15 years; and

WHEREAS, Section 806 of the Gas Supply Contract provides that, subject to the terms of any debt instrument relating to Authorized Debt (defined in the Gas Supply Contract), the Gas Supply Contract may be amended by instrument in writing executed with the same formality as the Gas Supply Contract; and

WHEREAS, pursuant to Section 705 of the Gas Supply Contract, the Member has acknowledged and agreed that the Gas Authority may assign and pledge to any person to whom amounts are owing under Authorized Debt its right, title and interests in and to all or any portion of the payments to be made to the Gas Authority under the provisions of the Gas Supply Contract and any Supplemental Contracts; and

WHEREAS, the Member has acknowledged pursuant to Section 405 of the Supplemental Contracts it has entered into pursuant to the terms of the Gas Supply Contract that all payments to be made by the Member pursuant to the provisions of such Article IV shall be pledged to secure the payment of the Gas Authority's Bonds; and

WHEREAS, the Gas Authority has heretofore adopted its Gas Revenue Bond Resolution (Gas Portfolio III Project) on December 13, 2002, as amended and restated on January 26, 2003, as amended and supplemented (the "Bond Resolution"), and Section 5.10 of the Bond Resolution provides that the extension of the term of the Gas Supply Contract does not constitute an amendment pursuant to such Section; and

WHEREAS, the Gas Authority and the Member have caused to be prepared this Second Amendment to Gas Supply Contract, dated as of December 1, 2008 (the "Second Amendment"), to provide for the extension of the term of each of the Gas Supply Contracts with the Members;

NOW, THEREFORE: For and in consideration of the premises and mutual covenants and agreements herein contained, the parties hereby agree as follows:

Section 1. **Term.** Section 101 of the Gas Supply Contract is hereby amended to extend the term stated therein for an additional 15 years beyond December 31, 2025 to December 31, 2040, and to extend the right of the Member to elect Resigning Member Status as provided in Section 101 of the Gas Supply Contract on each successive fifth anniversary after December 31, 2010 through December 31, 2035.

Section 2. **Miscellaneous.** This Second Amendment shall be read and taken together with the Gas Supply Contract as one and the same instrument. The Gas Supply Contract, as amended by this Second Amendment, is hereby ratified and affirmed in all respects. This Second Amendment is effective as of the date of execution hereof. This Second Amendment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Second Amendment as of the date first above written.

**MUNICIPAL GAS AUTHORITY OF
GEORGIA**

APPROVED AS TO FORM:

BY: _____
CHAIRMAN

GENERAL COUNSEL

ATTEST: _____
ASST. SECRETARY-TREASURER

(SEAL)

[SIGNATURES CONTINUED ON NEXT PAGE]

CITY OF CAMILLA

APPROVED AS TO FORM:

BY: Mary J. Haywood
MAYOR

[Signature]
CITY ATTORNEY

ATTEST: Karyn. Baker
CLERK

(SEAL)