

March 9, 2009

Date

APPROVAL OF RENEWAL ADDENDUM WITH CONSTELLATION NEWENERGY – GAS DIVISON, LLC (FORMERLY CORNERSTONE ENERGY) FOR NATURAL GAS SUPPLY AND AUTHORIZING FINANCE DIRECTOR TO EXECUTE RENEWAL ADDENDUM AND IMPLEMENTING AGREEMENTS

WHEREAS, the City historically has received its natural gas supply from Mid-America Energy, the local regulated utility; and

WHEREAS, The Iowa Utilities Board, effective September 1, 2004, adopted regulations to allow all government entities to participate in the Iowa Schools Gas Transportation Program, whereby the City became eligible to buy its natural gas supply from a third party marketer, eliminating the higher than market cost of natural gas from the regulated utility and introduce budget saving options; and

WHEREAS, on May 23, 2005, by Roll Call No. 05-1288, the City Council accepted the proposal of Cornerstone Energy and authorized a contract with said company for the provision of natural gas supplies for a one year contract with two 12 month renewal terms; and

WHEREAS, such contract was renewed for two renewal terms, which expired on May 31, 2008; and

WHEREAS, Cornerstone Energy has assigned the contract to Constellation NewEnergy – Gas Division, LLC, 12120 LaVista Blvd, NE 68128 (“Constellation”); and

WHEREAS, the procurement of utility services is exempt from the competitive bidding process under section 2-726(a)(4) of the Procurement Ordinance; and

WHEREAS, the Finance Director recommends that this contract be renewed until March 31, 2010 in order to enable the City to be able to timely procure a natural gas supply for the 2009- 2010 heating season at the most favorable rates; and

WHEREAS, Constellation has executed a Renewal Addendum to the above described contract with an initial term until March 31, 2010 for natural gas supply, with two one year renewal terms upon mutual agreement of the parties, a copy of which is on file in the City Clerk’s Office.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, that the Finance Director is hereby authorized and directed to execute the above described Renewal Addendum, and to execute implementing ancillary orders and agreements, and to execute up to two one year renewal addendums, subject to approval as to form by the Legal Department.

(Council Communication No. 09-160)

Approved as to Form:

Ann DiDonato, Assistant City Attorney

Moved by _____ to adopt.

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, HENSLEY, KIERNAN, MAHAFFEY, MEYER, VLASSIS, and TOTAL.

MOTION CARRIED APPROVED

Mayor

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk