

RESOLUTION NO. 2018 – 9

WHEREAS, the City of Wisner, Nebraska (hereinafter referred to as “City”) adopted Ordinance No. 2012-1063 on November 5, 2012, which authorized the execution of the Gas Supply Agreement for Total Requirements Supply (hereinafter referred to as “GSA”) with the National Public Gas Agency (hereinafter referred to as “NPGA”); and

WHEREAS, GSA has been in effect since the date of execution and City continues to be a total requirements participant under GSA; and

WHEREAS, City has received notice that on July 10, 2018, the NPGA Board of Directors approved entering into a long-term Gas Supply Contract (hereinafter referred to as “GSC”) with the Public Energy Authority of Kentucky (hereinafter referred to as “PEAK”) to purchase a portion of the natural gas available to PEAK under a tax-exempt prepayment transaction with BP Energy Company; and

WHEREAS, under the GSC, NPGA acknowledges and agrees that it will case the gas supply procured under the GSC to be used in a Qualifying Use, as defined in the GSC (hereinafter referred to as “Qualifying Use”) and that NPGA will not permit any portion of the gas supply procured under the GSC to be used for a Private Use, as defined in the GSC (hereinafter referred to as “Private Use”); and

WHEREAS, City has received a copy of the Resolution, a copy of which is attached, adopted by the NPGA Board of Directors on July 10, 2018 approving the GSC, which Resolution requires that NPGA members purchasing natural gas from NPGA adopt a Resolution acknowledging and agreeing to limit use of the gas supply procured under the GSC to a Qualifying Use and to not permit any portion of the gas supply procured under the GSC to be used for a Private Use; and

WHEREAS, NPGA may in the future acquire additional supplies of prepaid gas from PEAK and other suppliers for sale to NPGA members.

NOW, THEREFORE, BE IT RESOLVED that:

1. The City of Wisner, Nebraska does hereby reaffirm each of the objectives, terms and conditions set for in GSA.
2. The City of Wisner, Nebraska does hereby acknowledge and agree that the natural gas procured by NPGA under the GSC and any other supplies of prepaid gas that the NPGA Board of Directors may in the future determine to acquire for sale to the NPGA members (hereinafter referred to as “Prepaid Gas”) has been or will be financed with tax-exempt bonds and the use of the natural gas is restricted by federal tax regulations and the GSC, as well as any future gas supply contract for Prepaid Gas. In order to permit NPGA to comply with the GSA and any future gas supply contract for Prepaid Gas and such federal tax regulations, the City agrees as follows:
 - (A) City will use all of the Prepaid Gas delivered to it by NPGA solely to serve retail customers located in its natural gas service area (hereinafter referred to as “Service Area”) pursuant to generally applicable and uniformly applied rates and charges (hereinabove referred to as “Qualified Use”). “Service Area” means (i) any area throughout which City provided, at all times during the period beginning January 1, 2013 and ending on the issue date of the PEAK bonds, natural gas transmission or distribution services, or (ii) any area recognized as the natural gas distribution service area of City under state or federal law. Any other use, resale or remarketing of the Prepaid Gas delivered by NPGA to the City must be approved in writing by NPGA; and

(B) City will not use or permit to be used any of the Prepaid Gas purchased from NPGA in any manner or for any purpose which would cause interest on any bonds issued by PEAK or any other supplier or Prepaid Gas to NPGA to be subject to federal income taxation. Any sale of Prepaid Gas by City under a service contract with a gas customer must be approved in writing by NPGA.

PASSED AND APPROVED on this 6th day of August, 2018.

CITY OF WISNER

By _____
David Brown, Mayor

Attest:

City Administrator/Clerk/Treasurer

(SEAL)