



# CITY OF HOUSTON

Administration & Regulatory Affairs Department  
Strategic Purchasing Division

**Annise D. Parker**

Mayor

Calvin D. Wells, Deputy Director  
City Purchasing Agent  
P.O. Box 1562  
Houston, Texas 77251-1562

F. 832.393.8755  
<https://purchasing.houstontx.gov>

October 26, 2012

**SUBJECT:** Letter of Clarification No. 1 to Request for Qualification (RFQ) No.: Q24419 for CenterPoint-Entex Texas Gas Operations Franchise Compliance Review

**TO:** All Prospective Respondents

This Letter of Clarification is being issued for the following reason(s):

- To respond to questions posed by prospective respondents.

The following questions and City of Houston's responses are hereby incorporated and made a part of the RFQ:

**Question No. 1:** Can you provide a link to CenterPoint's current franchise with the City?

**Answer:** Please see the attached document (Exhibit A).

**Question No. 2:** Can you provide links to or copies of prior "audits"?

**Answer:** Please see the attached document (Exhibit B). The present audit will be the second one conducted under this franchise agreement.

**Question No. 3:** What type of compensation arrangement or arrangements to the Consultant are acceptable to the City, i.e. fixed fee, not-to-exceed, contingency, etc.?

**Answer:** The engagement will be negotiated at a fixed rate per hour (varying rates depending on the expertise of the consultant team member is allowable), with an overall not-to-exceed amount.

**Question No. 4.a:** Item 3.1.6 "an independent review and verification of CenterPoint-Entex's gross revenues, both inside and outside the incorporated City limits of Houston" and under 4.0, part I "local area" is defined as "the eight counties in and surrounding Houston city limits. Are these "eight counties" also participating in this project?

**Answer:** No, this review is particular to the City of Houston. The definition of "local area" is specific to the Hire Houston First Provisions of the City Code and not to the scope of work for this engagement.

*Partnering to better serve Houston*

**Question No 4.b:** If not, what authority does the City have to obtain information from CenterPoint regarding areas not covered by the City's franchise with CenterPoint?

**Answer:** The City's franchise agreement allows it to review all books and records related to the Company's operations under the franchise. The City believes this includes determining if revenue from addresses inside the City of Houston is incorrectly coded as originating outside of the City, and vice versa, especially along the immediate periphery of the City's boundaries. CenterPoint has not previously objected to providing this information for sampling.

**Question No.4.c:** Does the City expect the "review and verification" of "gross revenues" in the surrounding areas to be in some format, i.e. "gross revenues" per some agreement, "gross revenues" subject to franchise fees or some other basis?

**Answer:** Gross revenues are defined in the franchise agreement. The City wishes to determine if all appropriate revenues were included as gross revenues for the purpose of calculating the franchise fee owed. This includes verifying the coding of the revenue source type as well as the coding of the origination point of the revenues (the City of Houston abuts several surrounding communities).

**Question No. 5.a:** Concerning the City's MWBE Participation Goal of 15%: Does the City have information available to respondents on registered MWBEs?

**Answer:** See link below to search the City's certified Minority, Women, and Persons with Disabilities Business Enterprises, Small Business Enterprises (M/WPDBE/SBEs) Directory.  
<https://houston.mwdbe.com/FrontEnd/VendorSearchPublic.asp>

**Question No. 5.b:** Is there any waiver of this requirement for small firms or small budget projects?

**Answer:** The City believes the participation goal of 15% is reasonable for this type of engagement. There are sufficient accounting firms registered with the City as M/WPDBE/SBEs and there is sufficient work available to sub-contract that the respondent should be able to commit to the goal.

**Question No. 6:** Can we attend the pre-submission conference via telephone?

**Answer:** Yes. The instructions to dial-in for the pre-submission conference on November 1, 2012 at 10:00 a.m. are as follows:

- Dial-in #: 1-866-574-2770; (International dial-in #: 1-408-773-6294)
- When prompted, enter Conference Code: 9840668#

**Question No. 7:** Who did the last audit?

**Answer:** Diversified Utility Consultants, Inc. ("DUCI")

Letter of Clarification No. 1 to Request for Qualification (RFQ) No.: Q24419 for CenterPoint-Entex  
Texas Gas Operations Franchise Compliance Review

When issued, Letter(s) of Clarification shall automatically become a part of the solicitation documents and shall supersede any previous specification(s) and/or provision(s) in conflict with the Letter(s) of Clarification. It is the responsibility of the respondents to ensure that they have obtained any such previous Letter(s) associated with this solicitation. By submitting a response to this solicitation, respondents shall be deemed to have received all Letter(s) of Clarification and to have incorporated them into this solicitation and resulting response.

If you have any questions or if further clarification is needed regarding this solicitation, please contact me at 832-393-8726.

Sincerely,

*Ray DuRousseau*

Ray DuRousseau  
Deputy Assistant Director

Attachments: Exhibits A & B

City of Houston, Texas Ordinance No. 2007-489

**AN ORDINANCE GRANTING TO CENTERPOINT ENERGY RESOURCES CORP., DBA CENTERPOINT ENERGY TEXAS GAS OPERATIONS, THE RIGHT, PRIVILEGE AND FRANCHISE TO CONSTRUCT, INSTALL, EXTEND, RETIRE, OPERATE AND MAINTAIN ITS FACILITIES WITHIN THE PUBLIC RIGHTS-OF-WAY OF THE CITY OF HOUSTON, TEXAS FOR THE TRANSPORTATION, DELIVERY, SALE AND DISTRIBUTION OF NATURAL GAS; CONTAINING OTHER PROVISIONS RELATING TO THE FOREGOING SUBJECT; CONTAINING A REPEALER; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HOUSTON:**

**Section 1. GRANT OF AUTHORITY.** Subject to the terms, conditions and provisions of this ordinance, the right, privilege and franchise is hereby granted to CenterPoint Energy Resources Corp., DBA CenterPoint Energy Texas Gas Operations, hereinafter called "Company", to construct, install, extend, retire, operate and maintain its facilities within the Public Rights-of-Way of the City of Houston, Texas for the transportation, delivery, sale and distribution of natural gas within the corporate limits of the City of Houston, as the same are now and as the same may from time to time be extended. The right, privilege and franchise granted hereunder is granted subject to the existing City of Houston Charter and Ordinances.

**Section 2. DEFINITIONS.**

- A. "City" shall mean the City of Houston, Texas, a municipal corporation.
- B. "Company" shall mean CenterPoint Energy Resources Corp., DBA CenterPoint Energy Texas Gas Operations, a Delaware Corporation and shall not mean any of its affiliates and subsidiaries who shall have no right, privilege or franchise granted hereunder.
- C. "Facilities" shall mean pipes, pipelines, natural gas mains, laterals, feeders, regulators, meters, fixtures, connections and attachments and other instrumentalities and appurtenances, used in or incident to providing transportation, distribution, supply and sales of natural gas for heating, lighting, power and any other purposes for which natural gas may now or hereafter be used.
- D. "Public Rights-of-Way" shall mean the areas in, under, upon, over, across, and along any and all of the present and future Streets or streams now or hereafter owned or controlled by City.
- E. "Public Works Director" shall mean the Director of the City's Public Works and Engineering Department or his or her designee.
- F. "Street" shall mean the surface and the space above and below any public street, road, highway, alley, bridge, sidewalk, or other public place or way.

**Section 3. TERM OF FRANCHISE.** This Franchise shall become effective upon filing with the City by the Company of the acceptance required herein, and following the expiration of thirty days after final passage by the City Council and approval by the Mayor and shall be in full force and effect through March 31, 2037.

**Section 4. CONSTRUCTION AND MAINTENANCE OF NATURAL GAS DISTRIBUTION SYSTEM.** All Facilities installed by Company shall be of sound material and good quality, and shall be laid so that they will not interfere with the artificial drainage of the City or its underground fixtures, or with navigation in or the natural drainage of any stream. All Facilities shall be installed in accordance with applicable Federal, State and City regulations and in the absence of such regulations in accordance with accepted industry practice. Within the Public Rights-of-Way, the location and route of the Facilities by the Company shall be subject to the reasonable and proper regulation, direction and control of the Public Works Director or delegee. Such regulation shall include, but not be limited to, the right to require in writing to the extent provided in Section 14 the relocation of Company's Facilities at Company's cost within the Public Rights-of-Way of the City whenever such relocation shall be reasonably necessary to accommodate City Public Works improvement projects within the Public Rights-of-Way. The Company and the Public Works Director shall work together to develop a procedure under which Company shall make available to the City maps showing the location of Company's Facilities within the corporate limits of the City.

**Section 5. STREETS TO BE RESTORED TO GOOD CONDITION.** Company and its contractors shall give City reasonable notice of the dates, location and nature of all work to be performed on its Facilities within the Public Rights-of-Way. This Franchise shall constitute a permit to perform all work on Company's Facilities within the Public Rights-of-Way and to park vehicles in the Streets and other Public Rights-of-Way when necessary for the installation, retirement, operation or maintenance of Company's Facilities. Company and contractors performing work for Company shall not be required to obtain any permits in addition to the Franchise or to pay any fee in addition to the franchise fee in order to perform work on Company's Facilities, or park within the Streets and other Public Rights-of-Way. Following completion of work in the Public Rights-of-Way, Company shall repair the affected Public Rights-of-Way as soon as possible, but in all cases Company shall comply with all City ordinances governing time periods and standards relating to excavating in the Public Rights-of-Way. No street, alley, highway or public place shall be encumbered for a longer period than shall be necessary to execute the work.

**Section 6. QUALITY OF SERVICE.** The service furnished hereunder to the City and its inhabitants shall be in accordance with the quality of service rules of the Railroad Commission of Texas and all other applicable local, state and federal regulations. Company shall furnish the grade of service to its customers as provided by its rate schedules and shall maintain its system in reasonable operating condition during the continuance of this Franchise. An exception to this requirement is automatically in effect, but only for so long as is necessary, when caused by a shortage in materials, supplies and equipment beyond the control of the Company as a result of fires, strikes, riots, storms, floods and other casualties, governmental regulations, limitations and restrictions as to the use and availability of materials, supplies and equipment and as to the use of the services, and unforeseeable and unusual demands for service. In any of

such events the Company shall do all things reasonably within its power to restore normal service as quickly as practicable.

**Section 7. PAYMENT TO THE CITY.** In consideration for the rights and privileges herein granted, the administration of this Franchise by the City, the temporary interference with the use of Public Rights-of-Way and cost and obligations undertaken by the City in relation thereto and in lieu of any license, charge, fee, street or alley rental or other character of charge for use and occupancy of the streets, alleys, and public places of the City, and in lieu of any inspection fee, the Company agrees to pay the City franchise fees in the amount and manner described herein. In no event shall the Company be required to remit to the City franchise fee amounts that for any reason whatsoever are not fully recoverable from its customers.

(A) Under the prior Franchise, Ordinance No. 87-2031, franchise fee payments were made on a quarterly basis in arrears. The final quarterly payment under Ordinance No. 87-2031 shall be a pro-rated amount based upon the number of months during the quarter that such franchise was effective, and such final payment shall be made within thirty (30) days after the repeal of Ordinance No. 87-2031.

(B) For the First Franchise Year under this Franchise, the Company shall make monthly franchise fee payments of \$1,792,233.51 on the first day of the remaining months of the First Franchise Year in which this ordinance becomes effective. The first monthly payment under this Franchise shall be made within five (5) business days after the effective date of this Franchise.

(C) Beginning with the second Franchise Year and each succeeding Franchise Year for the remaining term of this Franchise, the Company shall pay franchise fees in an amount equal to five percent (5%) multiplied by the average Gross Revenues of the Company for the three previous calendar years. This amount shall be payable in twelve monthly payments as described below. The formulas for determining the franchise fees for the second Franchise Year and each succeeding Franchise Year can be expressed as follows:

$$\begin{aligned} \text{Total Annual Franchise Fee}_{\text{Franchise Year}} &= [(\text{Gross Revenues}_{\text{Calendar Year-1}} + \\ &\text{Gross Revenues}_{\text{Calendar Year-2}} + \text{Gross Revenues}_{\text{Calendar Year-3}}) \div 3 \times 5\%], \\ \text{and Monthly Franchise Fee Payment} &= \text{Total Annual Franchise Fee} \div 12 \end{aligned}$$

Payments will be paid on or before the first day of each month. Company shall calculate the new franchise fee to be payable for each Franchise Year and shall provide the same along with the basis for such calculation to City for its review no later than April 1<sup>st</sup> of each year. If Company does not receive an objection from City by May 31<sup>st</sup>, Company shall implement the new franchise fee payment on July 1<sup>st</sup>.

(D) (1) "Gross Revenues" means all funds received from customers that are directly related to the sale or transportation of natural gas within the City pursuant to rate schedules approved by the City or other regulatory authority, other than any rate schedules relating to the recovery of taxes.

(2) For purposes of this section, "Gross Revenues" does not include other amounts received from customers including, but not limited to:

(i) any revenue not actually received, even if billed, such as uncollectibles;

(ii) any revenue received by the Company that is not for the sale or transportation of natural gas including, for example, interest income;

(iii) any tax or fee of general applicability imposed upon the Company's customers by a city, state, federal or any other governmental entity and required to be collected by the Company and remitted to the entity (including, but not limited to, sales and use tax, excise tax, and utility users tax.

(iv) any amount received from the customer which the Company has an obligation to repay, such as customer deposits and customer advances, and which has not been applied against the customer's bill or account; and

(v) any amount received from customers that represents a reimbursement of amounts spent by the Company such as contributions in aid of construction.

(3) For purposes of this section, "Gross Revenues" includes any state gross receipt tax and the franchise fee hereunder which are imposed upon the Company and billed to its customers.

(E) "Franchise Year" shall mean the twelve-month period that begins on July 1 and ends on June 30 of the following calendar year.

(F) "First Franchise Year" shall mean the period from effective date of this ordinance through June 30, 2008.

**Section 8. ANNEXATIONS BY CITY.** This Franchise shall extend to and include any and all territory that is annexed by the City during the term of this Franchise. Within sixty (60) days from the receipt of notice from the City of any such annexation, the Company shall assure that any and all customers within such annexed territory are included and shown on its accounting system as being within the corporate limits of the City of Houston. After such sixty (60) day period the payment provisions specified in Section 7 of this Franchise shall apply to Gross Revenues received by the Company from customers located within such annexed territory. Company shall true-up its map of City boundaries to the City's map on an annual basis.

**Section 9. NON-EXCLUSIVE FRANCHISE.** Nothing contained in this Franchise shall ever be construed as conferring upon the Company any exclusive rights or privileges of any nature whatsoever.

**Section 10. COMPLIANCE AND REMEDIES.** (a) In the event the Company by act or omission violates any material term, condition or provision of this Franchise, the City shall notify the Company in writing of such violation. Should the Company fail or refuse to correct any such violation within thirty (30) days from the date of City's

notice, the City shall, upon written notification to the Company, have the right to terminate this agreement. Any such termination and cancellation shall be by ordinance adopted by City Council; provided, however, before any such ordinance is adopted, the Company must be given at least sixty (60) days' advance written notice. Such notice shall set forth the causes and reasons for the proposed termination and cancellation, shall advise the Company that it will be provided an opportunity to be heard by City Council regarding such proposed action before any such action is taken and shall set forth the time, date and place of the hearing.

(b) Other than its failure, refusal or inability to pay its debts and obligations, including, specifically, the payments to the City required by this Franchise, the Company shall not be declared in default or be subject to any sanction under any provision of this Franchise in those cases in which performance of such provision is prevented by reasons beyond its control.

(c) The rights and remedies of City and Company set forth herein shall be in addition to, and not in limitation of any other rights and remedies provided at law or in equity and City's exercise of any particular remedy shall not constitute a waiver of its rights to exercise any other remedy.

**Section 11. FAIR VALUATION.** This Franchise is granted subject to the lawful provisions of Article II, Section 17, of the Charter of the City of Houston, which provisions are incorporated herein by reference. If for the purposes of such section it shall ever become necessary to ascertain the mode of determining fair valuation, such fair valuation shall mean the then current value of such property which would be used for ratemaking purposes under the then applicable laws of the State of Texas. If the City should elect to exercise its rights under such section, payment of a fair valuation shall be required, the mode of ascertaining which, if not agreed upon by the parties, shall be determined in an appropriate proceeding filed in any court having jurisdiction.

**Section 12. RESERVE OF POWERS.** The City by the granting of this Franchise does not surrender or to any extent lose, waive, impair or lessen the lawful powers, claims and rights, now or hereafter vested in the City under the Constitution and statutes of the State of Texas and under the Charter and Ordinances of the City of Houston or other applicable law, to regulate public utilities within the City, to regulate the rates of public utilities within the City and to regulate the use of the Streets by the Company; and the Company by its acceptance of this Franchise agrees that all lawful powers and rights, whether regulatory or otherwise, as are or as may be from time to time vested in or reserved to the City, shall be in full force and effect and subject to the exercise thereof by the City at any time and from time to time.

**SECTION 13. INDEMNITY. THE COMPANY, ITS SUCCESSORS AND ASSIGNS, SHALL PROTECT AND HOLD THE CITY AND ITS OFFICERS, AGENTS, AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "THE CITY") HARMLESS AGAINST ANY AND ALL CLAIMS OR DEMANDS FOR DAMAGES TO ANY PERSON OR PROPERTY BY REASON OF THE CONSTRUCTION AND MAINTENANCE OF THE COMPANY'S NATURAL GAS DISTRIBUTION SYSTEM, OR IN ANY WAY GROWING OUT OF THE RIGHTS GRANTED BY THIS FRANCHISE, EITHER DIRECTLY OR INDIRECTLY, OR BY**

REASON OF ANY ACT, NEGLIGENCE OR NONFEASANCE OF THE COMPANY OR THE CONTRACTORS, AGENTS OR EMPLOYEES OF THE COMPANY OR ITS SUCCESSORS AND ASSIGNS, AND SHALL REFUND TO THE CITY ALL SUMS WHICH THE CITY MAY BE ADJUDGED TO PAY ON ANY SUCH CLAIM, OR WHICH MAY ARISE OR GROW OUT OF THE EXERCISE OF THE RIGHTS AND PRIVILEGES HEREBY GRANTED OR BY THE ABUSE THEREOF, AND THE COMPANY OR ITS SUCCESSORS AND ASSIGNS SHALL INDEMNIFY AND HOLD THE CITY HARMLESS FROM AND ON ACCOUNT OF ALL DAMAGES, COSTS, EXPENSES, ACTIONS, AND CAUSES OF ACTION THAT MAY ACCRUE TO OR BE BROUGHT BY, A PERSON, PERSONS, COMPANY OR COMPANIES AT ANY TIME HEREAFTER BY REASON OF THE EXERCISE OF THE RIGHTS AND PRIVILEGES HEREBY GRANTED, OR OF THE ABUSE THEREOF.

**Section 14. RELOCATION OF FACILITIES.** The Company shall, upon written request of the City, relocate its Facilities within Public Rights-of-Way at Company's own expense, exclusive of Facilities installed for service directly to City, to accommodate City Public Works improvement projects, including but not limited to street widening, changes of grade, water, sewer, or drainage upgrades, construction or reconstruction projects and minor relocation of traffic lanes. City shall bear the costs of all relocations of Facilities installed for service directly to City and of any relocation of other Facilities requested by City for reasons other than City Public Works improvements projects.

**Section 15. GOVERNMENTAL FUNCTION.** All of the regulations and activities required by this Franchise are hereby declared to be governmental and for the health, safety and welfare of the general public.

**Section 16. RECORDS AND REPORTS.** (a) Books of Account. The Company shall keep complete and accurate books of accounts and records of its business and operations under and in connection with this Franchise. All such books of accounts and records shall be kept at the Company's principal office in Houston, Texas.

(b) Access by City. The City may conduct an audit or other inquiry or may pursue a cause of action in relation to the payment of the franchise fee only if such audit, inquiry, or pursuit of a cause of action concerns a payment made less than three (3) years before the commencement of such audit, inquiry, or pursuit of a cause of action. Each party shall bear its own costs of any such audit or inquiry. Upon receipt of a written request from the City, all books and records related to Company's operations under this Franchise shall be made available for inspection and copying no later than thirty (30) days from receipt of such request.

(c) Interest on Underpayments and Overpayments. (1) Amounts due to City for late payments shall include interest, compounded daily equal to the return on equity plus three percent (3%) granted to the Company in its most recent proceeding fixing rates applicable to customers within the corporate limits of the City. (2) If the City identifies, as a result of a franchise fee compliance review, amounts owed by the Company from prior periods or prior underpayments, then, the Company shall pay simple interest on such amounts equal to the return on equity granted to the Company in its most recent proceeding fixing rates applicable to customers within the corporate limits of the City. Said interest shall be payable on such sums from the date the initial

payment was due until it is paid and shall not be billed to customers. (3) Amounts due Company for past overpayments shall include simple interest equal to the return on equity granted to the Company in its most recent proceeding fixing rates applicable to customers within the corporate limits of the City; provided, however, if there is a change in the approved return on equity during the time period subject to the City's audit or inquiry, then for each time period during which there was an overpayment, the approved return on equity in effect during such time period shall be used in calculating interest under this subparagraph (c). Interest payable on such sums shall be credited to customers.

**Section 17. EASEMENT.** In consideration for the compensation set forth in Section 7, City agrees that if City sells, conveys, or surrenders possession of any portion of the Public Right-of-Way that is being used by Company pursuant to this Franchise, City, to the maximum extent of its right to do so, shall first grant Company an easement for such use and the sale, conveyance, or surrender of possession of the Public Right-of-Way shall be subject to the right and continued use of Company.

**Section 18. REPEAL OF PREVIOUS ORDINANCES.** This Franchise replaces the franchise agreement with the Company, dated December 30, 1987, granted by City of Houston, Texas Ordinance No. 87-2031 which ordinance is hereby repealed as of the effective date of this Franchise. Any claims of City or Company thereunder are hereby waived.

**Section 19. ACCEPTANCE.** The Company shall, within thirty (30) days following the final passage and approval of this Franchise, file with the City Secretary of the City of Houston a written statement signed in its name and behalf in the following form:

"To the Honorable Mayor and City Council of the City of Houston:

CenterPoint Energy Resources Corp., DBA CenterPoint Energy Texas Gas Operations, its successors and assigns, hereby accepts the attached Franchise Ordinance and agrees to be bound by all of its terms and provisions."

**CENTERPOINT ENERGY RESOURCES CORP.,  
DBA CENTERPOINT ENERGY TEXAS GAS  
OPERATIONS**

By: \_\_\_\_\_  
Joseph B. McGoldrick  
Division President – Gas Operations

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

**Section 20. SEVERABILITY.** If any provision, section, subsection, sentence, clause or phrase of this Franchise is for any reason held to be unconstitutional, void, or invalid or for any reason unenforceable, the validity of the remaining portions of this Franchise shall not be affected thereby, it being the intent of the City of Houston in adopting this Franchise that no portion hereof or provision hereof shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion,

provision or regulation and, to this end, all provisions of this ordinance are declared to be severable.

**Section 21. NOTICES.** Every notice, order, petition, document, or other direction or communication to be served upon the City or the Grantee shall be deemed sufficiently given if sent by registered or certified mail, return receipt requested. Every such communication to the Grantee shall be sent to:

**CenterPoint Energy Resources Corp.  
Vice President Regulatory Relations  
PO Box 4567  
Houston, TX 77210-4567**

**With a copy to**

**General Counsel, Gas Division  
PO Box 2628  
Houston, TX 77252-2628**

Every such communication to the City or the City Council shall be sent to the

**Director, Finance & Administration Department  
611 Walker, 10<sup>th</sup> Floor  
Houston, Texas 77002**

and, as applicable, to the

**City Attorney,  
City Hall Annex  
900 Bagby, 4<sup>th</sup> Floor  
Houston, Texas 77002**

**City Secretary  
City Hall Annex  
900 Bagby, Public Level  
Houston, Texas 77002**

**Director of Public Works  
611 Walker, 25<sup>th</sup> Floor  
Houston, Texas 77002**

**Section 22. PUBLICATION, PASSAGE AND EFFECTIVE DATE.** This Franchise, having been published as required by Article II, Section 17 of the City Charter shall take effect and be in force from and after 30 days following its final passage and approval, and receipt by the City of Company's acceptance filed pursuant to Section 19. In compliance with the provisions of Article II, Sections 17 and 18, of the City Charter, the Company shall pay the cost of those publications and any costs associated with any elections held regarding this Franchise required by such Charter provisions.

PASSED first reading the 18th day of April, 2007.

PASSED second reading the 25th day of April, 2007.

PASSED third and final reading the 2nd day of May, 2007.

APPROVED the 2nd day of May, 2007.

ATTEST/SEAL:

\_\_\_\_\_  
City Secretary

Bill White  
Mayor of the City of Houston

\_\_\_\_\_  
Director,  
Finance and Administration Dept.

Prepared by Legal Dept. M. T. Burtan St  
MTP April 16, 2007 Senior Ass't. City Attorney  
Requested by Judy Gray Johnson, Director  
Finance and Administration Department  
LD# 0340600163001

4.16.2007 ENTEX FRANCHISE

OPTION PUBLISHED IN DAILY COURT  
VIEW  
DATE: MAY 0-8 2007

*Passed 1st Reading in full.*

| AYE     | NO                             |                 |
|---------|--------------------------------|-----------------|
| ✓       |                                | MAYOR WHITE     |
| ••••    | ••••                           | COUNCIL MEMBERS |
| ✓       |                                | LAWRENCE        |
| ✓       |                                | JOHNSON         |
| ✓       |                                | CLUTTERBUCK     |
|         | ABSENT-ON<br>PERSONAL BUSINESS | EDWARDS         |
|         | ABSENT DUE TO<br>BEING ILL     | WISEMAN         |
| ✓       |                                | KHAN            |
| ✓       |                                | HOLM            |
| ✓       |                                | GARCIA          |
| ✓       |                                | ALVARADO        |
| ✓       |                                | BROWN           |
| ✓       |                                | LOVELL          |
|         |                                |                 |
| ✓       |                                | GREEN           |
| ✓       |                                | BERRY           |
| CAPTION |                                | ADOPTED         |

*Passed 2nd Reading in full.*

| AYE     | NO                   |                 |
|---------|----------------------|-----------------|
| ✓       |                      | MAYOR WHITE     |
| ••••    | ••••                 | COUNCIL MEMBERS |
|         | ABSENT-CITY BUSINESS | LAWRENCE        |
| ✓       |                      | JOHNSON         |
| ✓       |                      | CLUTTERBUCK     |
| ✓       |                      | EDWARDS         |
|         | ABSENT               | WISEMAN         |
| ✓       |                      | KHAN            |
| ✓       |                      | HOLM            |
| ✓       |                      | GARCIA          |
| ✓       |                      | ALVARADO        |
| ✓       |                      | BROWN           |
| ✓       |                      | LOVELL          |
|         |                      |                 |
| ✓       |                      | GREEN           |
| ✓       |                      | BERRY           |
| CAPTION |                      | ADOPTED         |

*Passed Third & Final Reading in full.*

| AYE     | NO     |                 |
|---------|--------|-----------------|
| ✓       |        | MAYOR WHITE     |
| ••••    | ••••   | COUNCIL MEMBERS |
| ✓       |        | LAWRENCE        |
| ✓       |        | JOHNSON         |
| ✓       |        | CLUTTERBUCK     |
| ✓       |        | EDWARDS         |
| ✓       |        | WISEMAN         |
| ✓       |        | KHAN            |
|         | ABSENT | HOLM            |
| ✓       |        | GARCIA          |
| ✓       |        | ALVARADO        |
| ✓       |        | BROWN           |
| ✓       |        | LOVELL          |
|         |        |                 |
| ✓       |        | GREEN           |
|         | ABSENT | BERRY           |
| CAPTION |        | ADOPTED         |

**DIVERSIFIED UTILITY CONSULTANTS, INC.**1912 W. Anderson Ln, 202 • Austin, Texas 78757 • (512) 257-2600 • Fax (512) 257-2243

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June 28, 2011

Alfred J. Moran, Jr.  
Director  
Administration and Regulatory Affairs Department  
City of Houston, Texas

SENT VIA EMAIL

**RE:** Summary of Findings and Conclusions regarding the Franchise Fee Payment of  
CenterPoint Energy Texas Gas Division

Dear Mr. Moran:

Diversified Utility Consultants, Inc. (“DUCI”) has completed its review of CenterPoint Energy Texas Gas Operations’ (“CenterPoint” or “Company”) franchise fee payments to the City of Houston (“City”) for the franchise period January 2007 through December 2009. This review consisted of determining whether franchise fee payments have been made in accordance with the terms of the franchise agreement between the City and the Company. DUCI submitted numerous requests for information to the Company and reviewed the responses, verified the revenue included in the calculation of the franchise fee, and recalculated the franchise fees for accuracy. DUCI also reviewed the Company’s annexation practices to ensure timely recognition of new customers annexed into the City.

In May 2007, the City passed an ordinance establishing a new process for determining the franchise payments from CenterPoint.<sup>1</sup> Prior to the new ordinance, the Company calculated its franchise fees based on quarterly revenues. The franchise fees were paid quarterly in arrears at a rate of 4% of gross revenues for the Company’s Houston Division and 3.5% for Trans Texas-related revenues. During the review period, the franchise was calculated in this manner from January 2007 through May 2007.

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<sup>1</sup> City of Houston, Texas Ordinance No. 2007-489.

The new franchise agreement became effective June 2007.<sup>2</sup> Under the new franchise agreement, the franchise fee is calculated by taking the average of the three previous calendar year revenues, less uncollectible and transportation VOG-related amounts, multiplied by a 5% franchise fee for all divisions within the City limits. While the franchise fee amount is calculated on an annual basis, the amount is paid to the City on a monthly basis.

DUCI has reviewed the monthly revenues, by class, for the entire review period. The review verified that the Company's revenues in the franchise calculation matched its reported book revenue. The annual calculations for 2007 through 2009 were reviewed and verified.

The following table breaks down the payment and calculation of the franchise fees during the review period.

**Table 1**  
**CenterPoint Energy – Franchise Payments**

| <b>Period</b>                | <b>Payment</b> | <b>Payment Type</b> | <b>Annualized</b> |
|------------------------------|----------------|---------------------|-------------------|
| 1 <sup>st</sup> Quarter 2007 | \$7,279,707.49 | quarterly           | N/A               |
| April/May 2007               | \$2,880,941.41 | partial quarter     | N/A               |
| June 2007                    | \$1,792,233.51 | monthly             | N/A               |
| July 2007 – June 2008        | \$1,792,233.51 | monthly             | \$21,506,802.12   |
| July 2008 – June 2009        | \$1,771,447.92 | monthly             | \$21,257,375.04   |
| July 2009 – June 2010        | \$1,810,622.48 | monthly             | \$21,727,469.76   |

The following table details the annual revenues and calculation of the franchise fees starting in June 2007. As can be seen in the table below, revenues do fluctuate from year to year, due in part to the variance in the cost of gas.

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<sup>2</sup> The new ordinance became effective 30 days following final passage of the ordinance.

**Table 2**

**CenterPoint Annual Revenues and Monthly Franchise Fee Calculation**

|                                | <b>2004</b>          | <b>2005</b>          | <b>2006</b>          | <b>2007</b>          | <b>2008</b>          |
|--------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| Total                          | \$433,602,931        | \$490,570,894        | \$474,424,310        | \$449,106,813        | \$478,283,807        |
| Less                           |                      |                      |                      |                      |                      |
| Uncollectibles & Transport VOG | (\$2,688,209)        | (\$44,101,972)       | (\$61,399,825)       | (\$33,157,718)       | (\$3,609,203)        |
| Adjusted Total                 | <u>\$430,914,722</u> | <u>\$446,468,922</u> | <u>\$413,024,485</u> | <u>\$415,949,095</u> | <u>\$474,674,604</u> |
| 3-Year Average                 |                      |                      | \$430,136,043        | \$425,147,500        | \$434,549,394        |
| Franchise Rate                 |                      |                      | 5.00%                | 5.00%                | 5.00%                |
| Annual Franchise Fee           |                      |                      | <u>\$21,506,802</u>  | <u>\$21,257,375</u>  | <u>\$21,727,470</u>  |
| Monthly Franchise Fee          |                      |                      | <u>\$1,792,234</u>   | <u>\$1,771,448</u>   | <u>\$1,810,622</u>   |

In the prior franchise review for the City, one of the findings identified that the Company did not include annexed property in the franchise calculation in a timely manner. The new franchise ordinance requires the Company to include the revenue of the newly incorporated property within a sixty (60) day period.<sup>3</sup> The Company utilizes the automated system Smart Solutions for the annexation process for its Texas operations.<sup>4</sup> CenterPoint implemented an internal compliance/operations audit in September 2007 to review its gas franchise fee process. The result of that audit also identified the need to implement department timeline triggers related to its annexation-related workflow process.<sup>5</sup> The Company now states it has implemented processes to ensure annexation-related revenues are included in the franchise calculation in a timely manner. The new process includes notifications at 50 days and a 55-day alert to the billing system and regulatory group to assure all the information has been added before the 60-day period.<sup>6</sup> A review of the annexations during the review period did show that the Company was timely in the recording of newly annexed property.

In reviewing the data provided by CenterPoint, it appears the Company has correctly calculated the monthly franchise fees to the City during the review period.

<sup>3</sup> City of Houston, Texas Ordinance No. 2007-489, Section 8.

<sup>4</sup> Company's response to RFI 1-8.

<sup>5</sup> *Id.*

<sup>6</sup> Company's response to RFI 2-3.

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We appreciate the opportunity to provide this service to the City, and are prepared to answer any questions. If the City requires any additional assistance, please do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Diversified Utility Consultants, Inc." The signature is written in black ink and is positioned above the printed name of the company.

Diversified Utility Consultants, Inc.