

ORDINANCE NUMBER O- 18475 (NEW SERIES)

ADOPTED ON MAR 17 1998

AN ORDINANCE AUTHORIZING AMENDMENTS TO
TWENTY-YEAR AGREEMENTS FOR THE MIRAMAR
AND NORTH CITY COGENERATION PROJECTS.

WHEREAS, the City has heretofore entered into privatization agreements for the Miramar Landfill Gas and Cogeneration Projects and for the North City Cogeneration Project (the Project Agreements); and

WHEREAS, it is of mutual benefit to all parties to amend the Project Agreements in order to: (1) resize the North City Cogeneration Facility to more closely match the expected North City Water Reclamation Plant electrical load and the amount of fuel available; (2) to provide the Project Companies with certain language acceptable to their lender to assist their project financing; and (3) to provide the City with price protection for energy purchased under the Miramar Cogeneration and Energy Sales Agreement; and

WHEREAS, it is of benefit to the City to enter into Digester Gas Agreements with a Project Company to permit their qualification for tax credits for digester gas; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. The City Manager is hereby authorized and empowered to execute, for and on behalf of the City, the following:

- (a) An Amendment No. 1 to the Miramar Landfill Gas Lease and Operating Agreement with NEO San Diego, LLC, dated December 4, 1995, under the terms and conditions set forth in said Amendment No. 1, on file in the office of the City Clerk as Document

No. OO- 18475 -1, which specifically includes the Amended and Restated Landfill Gas Lease and Operating Agreement.

(b) An Amendment No. 1 to the Miramar Cogeneration Facility Site Lease Agreement with Minnesota Methane, LLC, dated December 4, 1995, under the terms and conditions set forth in said Amendment No. 1, on file in the office of the City Clerk as Document No. OO- 18475 -2, which specifically includes the Amended and Restated Cogeneration Site Lease Agreement.

(c) An Amendment No. 2 to the Cogeneration Facility and Energy Sales Agreement with Minnesota Methane, LLC, dated December 4, 1995, as amended by Amendment No. 1 dated February 25, 1997, under the terms and conditions set forth in said Amendment No. 2, on file in the office of the City Clerk as Document No. OO- 18475 -3, which specifically incorporates:

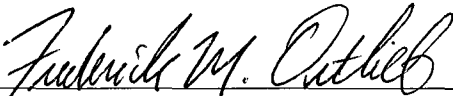
1. An Amended and Restated Miramar Privatized Cogeneration Facility and Energy Sales Agreement between the City and MM San Diego, LLC;
2. An Amended and Restated North City Privatized Cogeneration Facility & Energy Sales Agreement between the City and MM San Diego, LLC.
3. An Amended and Restated North City Cogeneration Facility Site Lease Agreement between the City and MM San Diego, LLC.
4. An Amended and Restated Well Installation Agreement between the City and NEO San Diego, LLC.

(d) A Digester Gas Agreement with MM San Diego, LLC, under the terms and conditions set forth in that instrument on file in the office of the City Clerk as Document No. OO- 18475 -4.

- (e) A Nonoperating Interest Acquisition Agreement with NEO San Diego, LLC, under the terms and conditions set forth in that instrument on file in the office of the City Clerk as Document No. OO- **18475** -5.
- (f) Guaranty Agreements with NEO Corporation and with Minnesota Methane, LLC, under the terms and conditions set forth in those instruments on file in the office of the City Clerk as Document Nos. OO- **18475** -6(a) and OO- **18475** -6(b).
- (g) An Amended and Restated Financing Commitment from NEO Corporation, under the terms and conditions set forth in that instrument on file in the office of the City Clerk as Document No. OO- **18475**7.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: CASEY GWINN, City Attorney

By 
Frederick M. Ortlieb
Deputy City Attorney

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