

(O-2008-2) ITEM 50
9/04/07

ORDINANCE NUMBER O- 19662 (NEW SERIES)

DATE OF FINAL PASSAGE SEP 17 2007

AN ORDINANCE OF THE CITY OF SAN DIEGO AUTHORIZING AN AGREEMENT WITH BOC MERCHANT PRODUCTION, INC. FOR THE PURCHASE AND SALE OF BIOGAS; AUTHORIZING A SITE LEASE TO BOC MERCHANT PRODUCTION, INC.; AUTHORIZING THE DEPOSIT OF FUNDS RECEIVED FOR SUCH BIOGAS; AND AUTHORIZING A GUARANTEE AGREEMENT WITH THE BOC GROUP, INC.

WHEREAS, the City's Point Loma Wastewater Treatment Plant [PLWTP] produces excess digester biogas which presently is being flared to comply with air emissions laws; and

WHEREAS, there are environmental and economic benefits in the prospect of beneficially using this excess biogas for the production of electric energy rather than continuing to waste it by flare combustion; and

WHEREAS, BOC Merchant Production, Inc., a wholly owned subsidiary of the BOC Group, Inc., has submitted a statement of qualifications and proposal to the City whereby BOC Merchant Production will design, permit, install, own, operate, and self-finance a biogas production facility on leased land at the PLWTP, to be known as the Beneficial Use of Digester Gas [BUDG] project; and

WHEREAS, BOC Merchant Production will purchase the excess biogas from City and will avail state incentive funds and possibly renewable energy credits to assist the construction and operation of the BUDG project and will use the gas for generating electric energy from fuel cells located at facilities in San Diego, thus reducing the emissions of greenhouse gasses from the PLWTP and increasing renewable electric generation within the City; and

WHEREAS, the price to be paid to City for excess biogas will include the reasonable value of a Site Lease to be granted by City to BOC Merchant Production for the BUDG project; and

WHEREAS, the BOC Group Inc. will guarantee the performance of its subsidiary BOC Merchant Production, Inc. by executing a Guarantee Agreement; NOW, THEREFORE,

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

Section 1. That the Mayor or his designee is authorized to execute, for and on behalf of the City, an agreement with BOC Merchant Production, Inc., under the terms and conditions set forth in the Agreement for Purchase and Sale of Biogas, on file in the office of the City Clerk as Document No. OO- 19662 - 1.

Section 2. That the Mayor or his designee is further authorized and empowered to execute a site lease with BOC Merchant Production, Inc. under the terms and conditions set forth in the BUDG Site Lease, on file in the office of the City Clerk as Document No. OO- 19662 - 2.

Section 3. That the Mayor or his designee is further authorized to execute an agreement with the BOC Group, Inc., under the terms and conditions set forth in the Guarantee Agreement on file in the office of the City Clerk as Document No. OO- 19662 - 3.

Section 4. That the City Auditor and Comptroller is authorized and directed to deposit funds received under the above Biogas Purchase and Sale Agreement into Sewer Revenue Fund No. 41508, Revenue Account 78317.

Section 5. That this activity is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15061(b)(3) because the activity does not have the potential for causing a significant effect on the environment.

Section 5. That a full reading of this ordinance is dispensed with prior to passage, since a written copy was made available to the City Council and the public prior to the day of its passage.

Section 6. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By Frederick M. Ortlieb
Frederick M. Ortlieb
Deputy City Attorney

FMO:mb
07/12/07
Or.Dept:MWWD
MWD-7107
O-2008-2

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of SEP 04 2007.

ELIZABETH S. MALAND, City Clerk

By Mary Zumaya
Deputy City Clerk

Approved: 9-17-07
(date)

JSA
JERRY SANDERS, Mayor

Vetoed: _____
(date)

JERRY SANDERS, Mayor