

RESOLUTION NUMBER R- 307050

DATE OF FINAL PASSAGE OCT 18 2011

A RESOLUTION OF THE CITY OF SAN DIEGO AUTHORIZING THIRD AMENDMENTS OF AGREEMENT FOR THE PURCHASE AND SALE OF BIOGAS; THE BENEFICIAL USE OF DIGESTER GAS SITE LEASE AT POINT LOMA WASTEWATER PLANT; THE POWER PURCHASE AGREEMENT FOR RENEWABLE BIOGAS FUELED ON-SITE POWER GENERATION AT THE SOUTH BAY WATER RECLAMATION PLANT; THE SOUTH BAY WATER RECLAMATION PLANT FUEL CELL SITE LEASE; A FIRST AMENDMENT TO GAS SERVICES AGREEMENT WITH THE CALIFORNIA DEPARTMENT OF GENERAL SERVICES; AND THE GRANT OF NECESSARY EASEMENTS TO SAN DIEGO GAS AND ELECTRIC COMPANY AND BIOFUELS ENERGY, LLC.

WHEREAS, On September 4, 2007, the Council of the City of San Diego authorized agreements with BOC Merchant Production Inc., a subsidiary of Linde Merchant Production (Linde) to buy, clean and compress approximately 1.2 million cubic feet of digester gas per day from the Point Loma Wastewater Treatment Plan to fuel remotely located fuel cells which will produce electricity at the South Bay Water Reclamation Plant (SBWRP) and at the University of California at San Diego (UCSD); and

WHEREAS, under this contract, Linde was to design, permit, install, own, operate, and finance the Beneficial Use of Digester Gas (BUDG) facility at the Point Loma Water Treatment Plant (PLWTP); and

WHEREAS, on March 25, 2008, the City Council approved a Power Purchase Agreement with Linde for a 1.2 MW fuel cell at SBWRP; and

WHEREAS, on June 23, 2009, by First Amendment to the agreements, the City Council approved Linde's request to assign these agreements to BioFuels Energy, LLC, and ultimately its affiliate BioFuels Point Loma LLC (BioFuels); and

WHEREAS, on December 17, 2009, the City Council approved the Second Amendment to the agreements, providing for delivery of biogas to fuel cells via the utility transmission system (Directed Biogas) instead of by truck; and

WHEREAS, it is advantageous for both parties to use the California Department of General Services (DGS) Natural Gas Services program for scheduling Directed Biogas deliveries through the SDG&E system, as such arrangement is same as for UCSD fuel cell; and

WHEREAS, easements need to be granted to SDG&E for the pipeline connecting the Point Loma project to the utility's natural gas system and to BioFuels Energy for on-site utilities; and

WHEREAS, this arrangement will result in the City taking title to the Directed Biogas at the Point Loma SDG&E delivery point and arranging through DGS for the transportation and delivery of the gas to the BioFuels' South Bay fuel cell, under the terms specified in Third Amendments to the agreements; NOW THEREFORE,

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

1. That the Mayor or his designee is authorized to execute, for and on behalf of the City, an amendment to the agreement with BioFuels Energy, LLC or its affiliate assignee for the Beneficial Use of Digester Gas, under the terms and conditions set forth in the Third Amendment to Agreement for the Purchase and Sale of Biogas, on file with the City Clerk as Document No. RR- 307050-1.

2. That the Mayor or his designee is authorized to execute, for and on behalf of the City, a further amendment to the Site Lease with BioFuels Energy, LLC or its affiliate assignee for the Beneficial Use of Digester Gas, under the terms and conditions set forth in the Third Amendment

for the Point Loma Wastewater Treatment Plant, on file with the City Clerk as Document No.

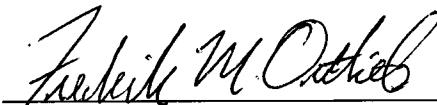
RR- 307050 - 2.

3. That the Mayor or his designee is authorized to execute, for and on behalf of the City, an amendment to the agreement with BioFuels Energy, LLC or its affiliate assignee for the purchase of renewable biogas fueled on-site fuel cell electric generation, under the terms and conditions set forth in the Third Amendment to Power Purchase Agreement for Renewable Biogas Fueled On-Site Power Cogeneration at the South Bay Water Reclamation Plant, on file with the City Clerk as Document No. RR- 307050 - 3.

4. That the Mayor or his designee is authorized to execute, for and on behalf of the City, a special purpose amendment to the Gas Services Agreement for SBWRP with the California Department of General Services on file with the City Clerk as Document No. RR- 307050 - 4.

5. That the Mayor or his designee is authorized to execute, for and on behalf of the City, a Directed Biogas interconnect easement to SDG&E and leasehold utility easements to BioFuels at the Point Loma and South Bay Sites.

APPROVED: JAN I. GOLDSMITH, City Attorney

By   
Frederick M. Ortlieb  
Deputy City Attorney

FMO:cla  
9/27/2011  
Or.Dept: Public Utilities/Wastewater  
Document #250966

I hereby certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of OCT 11 2011.

ELIZABETH S. MALAND  
City Clerk

By   
Deputy City Clerk

Approved: 10-18-11  
(date)

  
JERRY SANDERS, Mayor

Vetoed: \_\_\_\_\_  
(date)

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JERRY SANDERS, Mayor