

ORDINANCE NUMBER O- 21584 (NEW SERIES)

DATE OF FINAL PASSAGE DEC 14 2022

AN ORDINANCE OF THE SAN DIEGO CITY COUNCIL
AUTHORIZING (1) A FOURTH AMENDMENT TO THE
AGREEMENT FOR THE PURCHASE AND SALE OF BIOGAS
BETWEEN THE CITY OF SAN DIEGO, AS SELLER AND
WATONGA RNG 1, LLC, AS BUYER, AND (2) A FIFTH
AMENDMENT TO THE BENEFICIAL USE OF DIGESTER
GAS SITE LEASE AT THE POINT LOMA WASTEWATER
TREATMENT PLANT BETWEEN THE CITY OF SAN DIEGO,
AS LESSOR AND WATONGA RNG 1, LLC, AS LESSEE.

WHEREAS, on June 22, 2007, by Ordinance Nos. OO-19662-1 & 2, the City Council
approved an Agreement for the Purchase and Sale of Biogas (Gas Agreement) with BOC
Merchant Production Inc. (BOC) whereby BOC agreed to finance, build, own, and operate a gas
production facility (Beneficial Use of Digester Gas, or BUDG Facility) on leased premises (Site
Lease) at the Point Loma Wastewater Treatment Plant (PLWWTP); and

WHEREAS, under the Gas Agreement the City agreed to annually sell approximately
1.3 million cubic feet of raw digester gas from the PLWWTP to BOC; and

WHEREAS, BOC agreed to buy the raw gas and to purify and compress it in its
BUDG Facility, then to sell and deliver the compressed purified gas via trucks to supply fuel to
remotely located fuel cell electric generators, subject to the terms of those fuel cell gas supply
agreements, and to otherwise use or resell the cleaned gas; and

WHEREAS, on June 16, 2009, by Ordinance Nos. OO-19872 1 and 3, the City Council
approved Consents of Assignment and First Amendments to the Gas Agreement and the
BUDG Site Lease to authorize assignment of the project agreements from BOC to BioFuels
Point Loma, LLC; and

WHEREAS, on December 8, 2009, by Resolution Nos. RR-305483-1 & 2, the City Council approved Second Amendments to the Gas Agreement and the BUDG Site Lease, to delete trucking as the delivery mode to get processed gas to the fuel cell sites, and to instead use the then-new Directed Biogas regulations by which purified gas may be transported through public utility gas pipelines owned by San Diego Gas & Electric Company (SDG&E) or other public utility companies; and

WHEREAS, on October 11, 2011, by Resolution Nos. RR-307050-1 and 2, the City Council approved Third Amendments to the Gas Agreement and BUDG Site Lease, to enroll the City in the Natural Gas Program of the California Department of General Services, so that natural gas deliveries to the fuel cell sites could be scheduled and coordinated through the SDG&E system with optimal source balancing and bill settlement services to capture cost advantage for both parties; and

WHEREAS, on October 16, 2012, by Document C-15892, the Mayor approved a Fourth Amendment to the Site Lease pursuant to its terms which adjusted the boundaries of the Site Lease to conform to the actual requirements of the then-constructed BUDG Facility; and

WHEREAS, on January 23, 2019, after the BUDG Facility had been constructed and operational for years, the City, BioFuels Point Loma, LLC and Watonga RNG 1, LLC signed a "Consent to Assignment Agreement" by which BioFuels Point Loma, LLC assigned the Gas Agreement and Site Lease to Watonga RNG 1, LLC; and

WHEREAS, both the Gas Agreement and the Site Lease provide for a ten-year operating term for the BUDG Facility commencing on December 31, 2011, with automatic one-year renewals if either party does not notify the other within 12 months before expiration that it opts to not renew the agreements for such one year periods; and

WHEREAS, the Gas Agreement and Site Lease would have expired on December 31, 2021 except that neither party elected to notify the other that it opted to not renew the agreements for one year, and at this time the expiration date of the agreements is December 31, 2022; and

WHEREAS, the City and Watonga RNG 1 LLC now desire to extend the Gas Agreement and Site Lease for a period of four more years beyond December 31, 2022; and

WHEREAS, under Charter section 99, no contract, agreement, or obligation extending for a period of more than five years may be authorized except by Ordinance approved by a two-thirds majority vote of the City Council; and

WHEREAS, the Office of the City Attorney has drafted this ordinance based on the information provided by City staff with the understanding that this information is complete, true, and accurate; 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 a no-cost Fourth Amendment to the Agreement (H084434) for the Purchase and Sale of Biogas between the City of San Diego, as Seller and Watonga RNG 1, LLC, as Buyer, pursuant to the terms of that document on file in the Office of the City Clerk as Document No. 21584 -1.

Section 2. That the Mayor, or his designee, is authorized to execute the no-cost Fifth Amendment to the Agreement (H084247) for the BUDG Site Lease at Point Loma Wastewater Treatment Plant between the City of San Diego, as Lessor and Watonga RNG 1, LLC, as Lessee, pursuant to the terms of that document on file in the Office of the City Clerk as Document No. 21584 -2.

Section 3. That a full reading of this ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 4. That this ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Frederick M. Ortlieb
Frederick M. Ortlieb
Senior Deputy City Attorney

FMO:cw
10/03/22
Or.Dept: Public Utilities Department
CC No.: N/A
Doc. No.: 3104897

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego at this meeting of DEC 06 2022.

ELIZABETH S. MALAND
City Clerk

By Kristell Medina
Deputy City Clerk

Approved: 12/14/22
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on DEC 06 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 14 2022

AUTHENTICATED BY:

TODD GLORIA

Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

NOV 15 2022

and on DEC 14 2022

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND

City Clerk of The City of San Diego, California.

By Kristell Medina, Deputy

Office of the City Clerk, San Diego, California

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