

ORIGINAL

FIRST AMENDMENT

TO THE  
MASTER POWER PURCHASE AND SALE AGREEMENT  
BETWEEN  
SAN DIEGO GAS & ELECTRIC COMPANY  
AND  
CITY OF SAN DIEGO METRO WASTEWATER DEPARTMENT  
(SDG&E CONTRACT NO. 02-055)

This FIRST AMENDMENT is entered into on 12/22/2006 (the "Effective Date") by and between **San Diego Gas & Electric Company ("SDG&E")** and **City of San Diego Metropolitan Wastewater Department ("San Diego MWD")** to amend the Master Power Purchase and Sale Agreement and related Confirmation Letter both dated as of December 9, 2002 (the "Agreement"). SDG&E and San Diego MWD are sometimes referred to herein as "Party" and collectively as the "Parties." All capitalized terms used herein and not otherwise defined shall have their respective meanings set forth in the Agreement.

**WHEREAS**, the Parties desire to amend the Agreement under the terms and conditions set forth in this First Amendment.

**NOW, THEREFORE**, for mutual and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree, as of the Effective Date, as follows:

**Condition Precedent to the Effectiveness of this First Amendment:**

The obligations of both Parties under this First Amendment are expressly conditioned upon CPUC Approval on or before June 1, 2007. The Parties agree to cooperate and use all reasonable efforts to obtain the CPUC Approval as soon as is practicable. Should the CPUC issue an order approving this First Amendment with conditions or modifications that materially alter the commercial aspects of this First Amendment, the Parties shall have thirty (30) days from the mailing date of such order to provide the other Party written notice of the issuing Party's acceptance or non-acceptance of the CPUC order as issued; provided, however, if a Party fails to provide written notification of its acceptance or rejection to the other Party within such thirty (30) day period, that Party's silence shall be deemed to constitute acceptance of the CPUC order as issued and agreement by such Party that this condition has been satisfied, upon the CPUC Approval Date. If a notice of rejection is sent, the parties agree to use good faith efforts to renegotiate this First Amendment. If, within sixty (60) days of notice of non-acceptance, no agreement is reached, either party may terminate this First Amendment upon delivery of notice to the other party. For purposes of this First Amendment, the "CPUC Approval Date" shall be defined as the first Business Day after the date on which the CPUC issues a final, non-appealable order approving this First Amendment.

**1.0 Modification to the Cover Sheet**

- A. **Section 10.11. Confidentiality.** Section 10.11 shall be deleted in its entirety and replaced with the following:

Neither Party shall disclose the Contract Price to a third party, other than (i) the Party's employees, lenders, counsel, accountants or advisors who have a need to know such information and have agreed to keep such terms confidential, and to the City of San Diego City Council at the time it publicly approves this Contract., (ii) for disclosure to the Buyer's Procurement Review Group, as defined in CPUC Decision (D) 02-08-071, subject to a confidentiality agreement, (iii) to the CPUC under seal for purposes of review, (iv) disclosure of terms specified in and pursuant to Section 10.12 of this Agreement; (v) in order to comply with any applicable law (including, without limitation

the Public Records Act or the Ralph M. Brown Act), regulation, or any exchange, control area or ISO rule, or order issued by a court or entity with competent jurisdiction over the disclosing Party ("Disclosing Party"), other than to those entities set forth in subsection (vi); or (vi) in order to comply with any applicable regulation, rule, or order of the CPUC, CEC, or the Federal Energy Regulatory Commission.

- B. **RPS Confidentiality.** Add a new section to Article 10 as follows:

*"10.12 RPS Confidentiality. Notwithstanding Section 10.11 of this Agreement at any time on or after the date on which the Buyer makes its advice filing letter seeking CPUC Approval of the First Amendment either Party shall be permitted to disclose the following terms with respect to such Transaction: Party names, resource type, delivery term, project location, Commercial Operation Date, estimated annual Output, and project capacity.*

- C. **Section 10.14. CPUC Approval.** The definition of "CPUC Approval" shall be deleted in its entirety and replaced with the following:

*"CPUC Approval" means a final and non-appealable order of the CPUC, without conditions or modifications unacceptable to the Parties, or either of them, which contains the following terms:*

*(1) Approves this First Amendment in its entirety, including payments to be made by the Buyer, subject to CPUC review of the Buyer's administration of the First Amendment;*

*(2) finds that any procurement pursuant to this First Amendment is procurement from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation that it may have to procure eligible renewable energy resources pursuant to the California Renewables Portfolio Standard (Public Utilities Code Section 399.11 et seq.), Decision 03-06-071, or other applicable law;*

*(3) finds that any procurement pursuant to this First Amendment constitutes incremental procurement or procurement for baseline replenishment by Buyer from an eligible renewable energy resource for purposes of determining Buyer's compliance with any obligation to increase its total procurement of eligible renewable energy resources that it may have pursuant to the California Renewables Portfolio Standard, CPUC Decision 03-06-071, or other applicable law; and CPUC Approval will be deemed to have occurred on the date that a CPUC decision containing such findings becomes final and non-appealable."*

## **2.0 Modification to the Confirmation Letter**

- A. **Product.** On page 1 the section entitled Product is hereby amended by adding to the following to the end thereof:

*Product. The Product also includes all Environmental Attributes and Resource Adequacy as more fully described below.*

*Seller grants, pledges, assigns and otherwise commits to Buyer all of the Project's Total Net Contract Capacity, including Capacity Attributes, from the Project to enable Buyer to meet its Resource Adequacy or successor program requirements, as the CPUC, CAISO or other regional entity may prescribe ("Resource Adequacy Requirements"). Seller shall, at a minimum, comply with the terms required by the CPUC and CAISO and shall cooperate with Buyer during the Delivery Period to certify or qualify the Total Net Contract Capacity to meet Buyer's Resource Adequacy Requirements.*

*"Capacity Attributes" means any current or future defined characteristic, certificate, tag, credit, or ancillary service attribute, whether general in nature or specific as to the location or any other attribute of the Project, intended to value any aspect of the capacity*

of the Project to produce Energy or ancillary services, including but not limited to any accounting construct so that the full Contract Capacity of the Project may be counted toward a Resource Adequacy Requirement or any other measure by the CPUC, the CAISO, the FERC, or any other entity invested with the authority under federal or state law, to require Buyer to procure, or to procure at Buyer's expense, Resource Adequacy or other such products.

"Resource Adequacy" means the procurement obligation of load serving entities, including Buyer, as such obligations are described in CPUC D.04-10-035 and D.05-10-042 and subsequent CPUC decisions addressing Resource Adequacy issues, as those obligations may be altered from time to time in the CPUC Resource Adequacy Rulemaking (R.)04-04-003 and (R.)05-12-013 or by any successor proceeding, and all other Resource Adequacy obligations established by any other entity, including the CAISO.

- B. **Energy Production and Purchase Guarantees.** On page 2 the section entitled Energy Production and Purchase Guarantees is hereby amended by deleting the first sentence in its entirety and replacing it with the following:

*Subject to the excuses enumerated in the section entitled "Product", Party A estimates an annual Net Energy production from the Project each calendar year of 22,000 MWh, and guarantees annual deliveries of 10,000MWh ("Guaranteed Minimum").*

- C. **Specified Units.** On page 2 the section entitled Specified Units is hereby deleted in its entirety and replaced with the following:

**Specified Units.** Four separate units proximately located at Party A's Point Loma Wastewater Treatment Plant (wholly described as the "Project"), are as follows:

Unit	Description	MW		
		Gross Per Unit	Net per Unit	Total Net Contract Capacity
1	cogenerating engines operating on sewage digester gas	1.1425	.55	1.1
2	cogenerating engines operating on sewage digester gas	1.1425	.55	1.1
3	hydroelectric facility operating on treated sewage effluent	1.35	1.156	1.156
4*	dual fuel peaking unit operating principally on digester gas	1.2	1.2	1.2
	<b>Total</b>			<b>4.556</b>

\* This unit will no longer be available to generate under this Agreement starting January 1, 2008. The parties may amend this contract to include the output of Unit #4 at any time upon mutual written agreement. The price for any output from the resultant amendment will be at the Contract Price.

- D. **Contract Price.** On page 3, the first sentence of the section entitled Contract Price is hereby deleted in its entirety and replaced with the following:

*Contract Price. From the start of the Delivery Period until January 1, 2008: \$44.32 and from January 1, 2008 until the end of the Delivery Period: \$75.60 per MWh.*

- E. **Delivery Period.** On page 3, the first paragraph of the section entitled Delivery Period shall be amended by deleting the phrase “five years from the Initial Delivery Date” and replacing it with “December 31, 2012 as may be extended in accordance with the terms herein.”

The Parties also agree to add the following at the end of the section entitled “Delivery Period”:

*Party A has the option to extend the Delivery Period beyond December 31, 2012 for consecutive one year periods up to five times. Except for the end date of the Delivery Term, all terms and conditions herein shall remain the same, including, without limitation, the Contract Price. Such annual options shall be deemed automatically exercised unless Party A notifies Party B in writing no later than June 30th of each year starting in 2012 of its intention to decline the option to extend the Delivery Period for another one year period. If in any applicable year Party A declines to extend the Agreement for another year, the Agreement will terminate on December 31 of that year.*

- F. **Scheduling.** On page 3, the following will be inserted after paragraph one in the section entitled Scheduling:

*Annual Delivery Schedules. No later than forty-five (45) days before the beginning of each calendar year, Seller shall provide a non-binding forecast of each month's average-day deliveries of Output, by hour, for the following calendar year.*

*Monthly Delivery Schedules. Ten Business Days before the beginning of each month, Seller shall provide a non-binding forecast of each day's average deliveries of Output, by hour, for the following month (“Monthly Delivery Forecast”).*

*Weekly Delivery Schedules. Three Business Days before the beginning of each week, Seller shall provide a non-binding forecast that represents Seller's best estimate of each day's average deliveries of Output, by hour, for the following week (“Weekly Delivery Forecast”).*

*Notwithstanding anything to the contrary herein, in the event Party A makes a change to its schedule on the actual date of delivery for any reason including Forced Outages and has not otherwise notified Party B, Party A shall notify Party B immediately by calling Party B's on-duty scheduling coordinator. Party A shall submit an Outage Notification Form substantially in the form of Attachment 2: Outage Notification Form (as may be modified from time to time by Party B) to Party B in accordance with the instructions shown on the form. Party A shall keep Party B informed of any developments that will affect either the duration of the outage or the availability of the Project during or after the end of the outage.*

- G. **Special Conditions.** On page 6, the first paragraph relating to Renewable Energy Credits shall be deleted and replaced with the following:

*Seller hereby provides and conveys all Environmental Attributes from the Unit(s) to Buyer as part of the Product being delivered, as such term is described in the applicable Transaction confirmation for the period set forth in such confirmation. Seller represents and warrants that Seller holds the right to all Environmental Attributes from the Unit(s), and Seller agrees to convey and hereby conveys all such Environmental Attributes to Buyer as included in the delivery of the Product from the Unit(s).*

*“Environmental Attributes” means any and all credits, benefits, emissions reductions, offsets, and allowances, howsoever entitled, attributable to the generation from the Unit(s) and its displacement of conventional energy generation. Environmental Attributes include but are not limited to: (1) any avoided emissions of pollutants to the air, soil or water such as sulfur oxides (SOx), nitrogen oxides (NOx), carbon monoxide (CO) and*

other pollutants; (2) any avoided emissions of carbon dioxide (CO2), methane (CH4) and other greenhouse gases (GHGs) that have been determined by the United Nations Intergovernmental Panel on Climate Change to contribute to the actual or potential threat of altering the Earth's climate by trapping heat in the atmosphere; and (3) the reporting rights to these avoided emissions such as Green Tag Reporting Rights. Green Tag Reporting Rights are the right of a Green Tag Purchaser to report the ownership of accumulated Green Tags in compliance with federal or state law, if applicable, and to a federal or state agency or any other party at the Green Tag Purchaser's discretion, and include without limitation those Green Tag Reporting Rights accruing under Section 1605(b) of The Energy Policy Act of 1992 and any present or future federal, state, or local law, regulation or bill, and international or foreign emissions trading program. Green Tags are accumulated on kWh basis and one Green Tag represents the Environmental Attributes associated with one (1) MWh of energy. Environmental Attributes do not include (i) any energy, capacity, reliability or other power attributes from the Unit(s), (ii) production tax credits associated with the construction or operation of the energy projects and other financial incentives in the form of credits, reductions, or allowances associated with the project that are applicable to a state or federal income taxation obligation, (iii) fuel-related subsidies or "tipping fees" that may be paid to Seller to accept certain fuels, or local subsidies received by the generator for the destruction of particular pre-existing pollutants or the promotion of local environmental benefits, or (iv) emission reduction credits encumbered or used by the Unit(s) for compliance with local, state, or federal operating and/or air quality permits. If Seller's Unit(s) is a biomass or landfill gas facility and Seller receives any tradable Environmental Attributes based on the greenhouse gas reduction benefits or other emission offsets attributed to its fuel usage, it shall provide Buyer with sufficient Environmental Attributes to ensure that there are zero net emissions associated with the production of electricity from such facility.


H. **Termination.** On page 7, in the second paragraph under the section entitled "Termination" insert the words "due to a Force Majeure event" after the word "months".

3.0 **No Other Modification.** Except as modified and amended herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect. This First Amendment shall be subject to all of the terms and conditions of the Agreement as if it were a part thereof, including, without limitation, any provision with respect to choice of law, venue, and/or jurisdiction.

**IN WITNESS WHEREOF**, the Parties have read this First Amendment, understand it and agree to be bound by its terms.

Party A: City of San Diego

Party B: San Diego Gas & Electric Company

Signature: 

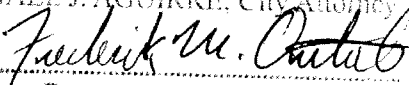
Signature: 


By: RICK REYNOLDS

By: Terry Farrelly

Title: ASSISTANT CHIEF OPERATING OFFICER

Title: Vice President,  
Electric and Gas Procurement

Approved as to form and legality  
this 22<sup>nd</sup> day of DECEMBER, 06  
MICHAEL J. AGUIRRE, City Attorney  
By:   
Deputy City Attorney

APPROVED as to legal form 

Attachment 2

OUTAGE NOTIFICATION FORM

**OUTAGE NOTIFICATION FORM**

*This form may be used to comply with CAISO's outage notification requirements for both planned and forced outages. Report outages as soon as possible by submitting form via email to TSched@SemptraUtilities.com or via fax at (858) 650-6191.*

<p>Request Type: <input type="text" value="New Scheduled Maintenance Outage"/></p> <p>Generator Name: _____ Location Code: _____ Address: _____ _____ _____ Contact Name: _____ Phone Number: _____ Email: _____ Alternate Name: _____ Alternate Number: _____ Email: _____</p>	<p>Previous Notification (if applicable)</p> <table border="1" style="width: 100%;"><tr><td>Date Sent: _____ mm/dd/yyyy</td></tr><tr><td>Time Sent: _____ hh:mm</td></tr></table> <p>(For times, use 24hr format)</p> <p>Today's Date: _____ mm/dd/yyyy Current Time: _____ hh:mm</p> <p>Outage Start Date: _____ mm/dd/yyyy Outage Start Time: _____ hh:mm</p> <p>Outage End Date: _____ mm/dd/yyyy Outage End Time: _____ hh:mm</p> <p>Outage Duration: _____ MW Available During Outage: _____ MW Unavailable During Outage: _____ RMR Unit? Yes/No _____</p>	Date Sent: _____ mm/dd/yyyy	Time Sent: _____ hh:mm
Date Sent: _____ mm/dd/yyyy			
Time Sent: _____ hh:mm			

**System** (Select One)

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<input checked="" type="radio"/> Boiler Codes 0010-1999	<input type="radio"/> Generator Codes 4500-4899	<input type="radio"/> Regulatory, Safety, Environmental Codes 9504-9720
<input type="radio"/> Balance of Plant Codes 3110-3999	<input type="radio"/> Pollution Control Equipment Codes 8000-8835	<input type="radio"/> Others Codes 9900-9999
<input type="radio"/> Steam Turbine Codes 4000-4499	<input type="radio"/> External Codes 9000-9040	

**Cause Code Ranges / Affected Component**

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(Select One)

**Cause Code / Component Problem**

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(Select One)

**Comments**

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