

EM SUBMISSION NO: EME 6202014

PRESENTED: 11-19-14

ADOPTED: 11-24-14

**RESOLUTION AUTHORIZING CHANGE ORDER NO. 2 TO THE OPERATING AGREEMENT WITH SWEDISH BIOGAS NORTH AMERICA**

**BY THE EMERGENCY MANAGER:**

Pursuant to the authority granted the Emergency Manager by Public Act 436 of 2012, the Operating Agreement (Contract 09-118) between the City of Flint (Licensee) and Swedish Biogas International, LLC, North American Operations (Licensor) shall be amended and restated to include revisions to the Flint Biogas Plant operating terms and compensation. The Change Order provides for the establishment of a Biogas Electrical Plant which will generate electricity to be used for the City Water Pollution Control Plant, using biogas as its fuel. It also changes the overall compensation terms, and includes new terms for revenue generation, sale, and the production of the electricity; and

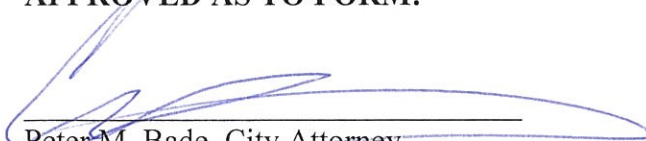
Swedish Biogas International, LLC, now known as Bioworks Energy, LLC, is a licensee under a license agreement between Swedish Biogas International AB as a licensee and Tekniska Verken i Linköping AB and Svensk Biogas i Linköping AB as licensor with respect to technology and processes associated with the generation of biogas and the application of related technologies to wastewater treatment operations; and

Bioworks Energy, LLC, and the City of Flint are parties to (1) a Development Agreement dated July 9, 2009 (the "Development Agreement") for the development, construction, and installation of a biogas plant at the City's Water Pollution Control Plant; and (2) an Operating Agreement dated July 9, 2009 (the "Original Operating Agreement") for the establishment and operation of a biogas plant. The biogas plant was completed and commenced operations on September 12, 2011; and

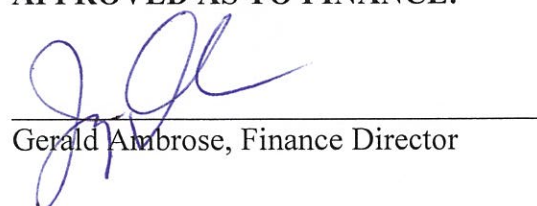
Pursuant to the Original Operating Agreement, the Parties entered into a license and related arrangements under which Licensor (Bioworks) has made available to the Licensee (the City) capital improvements, technologies and certain services, Licensee has implemented such technologies, the Parties are cooperating to maximize the benefit to Licensee of the technologies, and the Parties are receiving mutual financial benefits resulting from the implementation of the technologies.

**IT IS RESOLVED**, that the Emergency Manager does, on behalf of the City of Flint, authorize Change Order No. 2 to Contract 09-118, Biogas Production Operating Agreement. In the case of a conflict between the terms and provisions of the original Operating Agreement and the terms and provisions of this Change Order, the terms and provisions of the Change Order shall control.

**APPROVED AS TO FORM:**

  
Peter M. Bade, City Attorney

**APPROVED AS TO FINANCE:**

  
Gerald Ambrose, Finance Director

**EM DISPOSITION:**

ENACT X REFER TO COUNCIL \_\_\_\_\_ FAIL \_\_\_\_\_

  
Darnell Earley, Emergency Manager

DATED: 11-24-14

# RESOLUTION STAFF REVIEW

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November 3, 2014

**Agenda Item Title:** Swedish Biogas LLC Operating Agreement, Change Order 2

**Prepared By:** Robert J. Case

**Background/Summary of Proposed Action:**

The Operating Agreement (Contract 09-118) between the City of Flint (Licensee) and (Licensor) Swedish Biogas LLC, (now known as **Bioworks Energy LLC**) shall be amended and restated to include revisions to the services provided, operating terms, and compensation. The Change Order provides for the establishment of a Biogas Electrical Plant which will generate electricity to be used for the City Water Pollution Control Plant, using biogas as its fuel. It also changes the overall compensation terms, and includes new terms for revenue generation, sale, and the production of the electricity.

Compensation for services will now consist of a fixed and variable component, instead of a purely variable contract, based strictly on the reduction in sludge volume due to the biogas process. The new Change Order provides for payments for the electricity and incentives for procurement of outside wastes. Revenue from outside waste tipping fees will be shared by the City and Bioworks Energy.

**Financial Implications:**

Please approve this Change Order. Fees are to be paid from WPC account 590-550.100-920.400 which has adequate funding for this contract Change Order.

**Budgeted Expenditure?** ☒ Yes ☐ No Please explain if no:

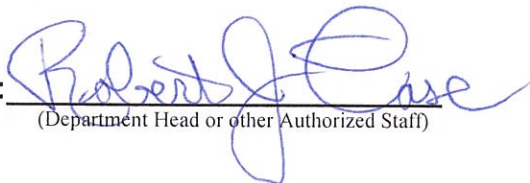
**Account No.:** 590-550.100-920.400, SBI Payment

**Pre-encumbered?** Yes ☐ No ☐ Requisition: N/A

**Other Implications (i.e., collective bargaining):** None

**Staff Recommendation:** Approve

**Staff Person:**

  
(Department Head or other Authorized Staff)