

ORDINANCE NUMBER O- **21337** (NEW SERIES)

DATE OF FINAL PASSAGE **JUL 16 2021**

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SAN DIEGO EXTENDING THE TERM FOR TWO YEARS OF THAT CERTAIN FRANCHISE TO CONSTRUCT, MAINTAIN, AND USE PIPES AND APPURTENANCES IN STREETS OF THE CITY OF SAN DIEGO FOR TEMPERATURE CONTROLLED WATER FOR HEATING AND COOLING PURPOSES GRANTED TO APPLIED ENERGY, INC. BY ORDINANCE NUMBER O-10639 (NEW SERIES) ON JULY 29, 1971, AS PERMITTED TO BE ASSIGNED TO RSD POWER PARTNERS, LLC DOING BUSINESS AS SAN DIEGO POWER & COOLING COMPANY, BY ORDINANCE NUMBER O-18075 ON MAY 31, 1994, WITH SAID GRANTEE NOW DOING BUSINESS AS ENERGY CENTER SAN DIEGO LLC.

WHEREAS, by San Diego Ordinance O-10639 (July 29, 1971), the City of San Diego (City) granted a franchise for a period of fifty (50) years to Applied Energy, Inc., doing business as San Diego Central Cooling Company, to construct, use, and maintain pipes and appurtenances in streets of the City to provide temperature-controlled water service for purposes of heating and cooling buildings in the City which adjoin said streets; and

WHEREAS, the Grantee's temperature-controlled water service pipes and appurtenances primarily serve customers and buildings in the Downtown San Diego area; and

WHEREAS, by San Diego Ordinance O-18075 on May 31, 1994, the City authorized the assignment of said temperature-controlled water service franchise from Applied Energy, Inc. to RSD Power Partners, LP, doing business as San Diego Power & Cooling Company; and

WHEREAS, effective March 31, 2021 RSD Power Partners merged into NRG Energy Center LLC, still doing business as San Diego Power & Cooling Company; and

WHEREAS, on September 18, 2018 NRG Energy Center LLC changes its name to Energy Center San Diego, LLC; and

WHEREAS, the granted franchise now exists between the City and Energy Center San Diego, LLC; and

WHEREAS, the fifty (50) year term of the franchise is due to expire August 28, 2021; and

WHEREAS, Energy Center San Diego, LLC has applied for a two-year extension of the franchise on the same terms and for the same consideration currently provided, and the Mayor has recommended such two-year extension; and

WHEREAS, it is in the interest of the City and the customers served by the franchise to grant such extension; and

WHEREAS, some of the City's own buildings are served by such temperature-controlled water service as authorized by San Diego Resolution R-312222 on March 7, 2019; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, that the fifty (50) year term provided in Section 3 of the franchise granted by San Diego Ordinance O-10639 (July 29, 1971), is hereby extended for a period of two years, and the words "fifty (50)" in section 3 of said franchise are hereby deleted in whole and replaced with the words "fifty two (52)" to give effect to such two-year extension.

BE IT FURTHER ORDAINED, that all other terms and conditions of the franchise granted by Ordinance O-10639, as amended by San Diego Ordinance O-18075 (May 31, 1994), shall remain in full force and effect.

BE IT FURTHER ORDAINED, 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.

BE IT FURTHER ORDAINED, this Ordinance shall take effect and be in force on the thirtieth day from and after the date of its final passage pursuant to San Diego Charter section 295.

APPROVED: MARA W. ELLIOTT, City Attorney

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

FMO:cw
05/13/21
Or.Dept: Sustainability
CC No.: N/A
Doc. No.: 2660695

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of 06/29/2021.

ELIZABETH S. MALAND
City Clerk

By /s/Linda Irvin
Deputy City Clerk

Approved: 7/14/21
(date)


TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on JUN 29 2021, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	☒	☐	☐	☐
Jennifer Campbell	☒	☐	☐	☐
Stephen Whitburn	☒	☐	☐	☐
Monica Montgomery Steppe	☒	☐	☐	☐
Marni von Wilpert	☒	☐	☐	☐
Chris Cate	☒	☐	☐	☐
Raul A. Campillo	☒	☐	☐	☐
Vivian Moreno	☒	☐	☐	☐
Sean Elo-Rivera	☒	☐	☐	☐

Date of final passage JUL 16 2021.

AUTHENTICATED BY:

(Seal)

TODD GLORIA
Mayor of The City of San Diego, California.

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Linda Irwin, 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

JUN 16 2021, and on JUN 29 2021.

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 Linda Irwin, Deputy

Office of the City Clerk, San Diego, California

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