

**ASSOCIATION OF BAY AREA GOVERNMENTS
PUBLICLY OWNED ENERGY RESOURCES**

BOARD OF DIRECTORS

RESOLUTION NO. 23-04

RESOLUTION ESTABLISHING A VOLUNTARY RENEWABLE NATURAL GAS PROGRAM

WHEREAS, in 1998, the Association of Bay Area Governments (ABAG) and local governments created ABAG POWER for the purpose of acquiring for use by its members, energy, including, but not limited to, natural gas and electricity, and of telecommunications services and such other services and goods as may be necessary or convenient to optimize costs savings and to manage the use or supply of energy or telecommunications services; and,

WHEREAS, the Bylaws of ABAG POWER provide that the Board has the power, upon majority vote, to establish Programs within the purpose and power of ABAG POWER and to adopt general policy guidelines for their implementation; and

WHEREAS, the Board has established a Natural Gas Aggregation Program that is currently in its twenty-fifth year of operation, and an Electric Aggregation Program, that operated for approximately three years, from 1998 to 2001; and

WHEREAS, California has adopted various policies and regulatory requirements to achieve the State's goals for reductions in greenhouse gas emissions, including programs and incentives to address the recycling of organic waste pursuant to Senate Bill 1383, which was adopted in 2016 ("SB 1383") and the promotion and use of low carbon fuels pursuant to the low carbon fuel standard ("LCFS") adopted by the California Air Resources Board ("CARB"); and

WHEREAS, one of the key elements in the reduction of greenhouse gas emissions is the generation and use of biomethane, which is commonly referred to as renewable natural gas ("RNG"); and

WHEREAS, pursuant to rules and regulations issued by the California Department of Resources Recycling and Recovery ("CalRecycle") to implement SB 1383, local governments are required to procure products from the recycling of organic waste in accordance with jurisdictional targets established by CalRecycle ("SB 1383 Procurement Requirements") and one of the ways to satisfy procurement targets is to purchase RNG that has been generated as a result of such recycling efforts (as permitted pursuant to 14 CCR Section 18993.1 (f)); and

WHEREAS, in 2021, ABAG POWER staff conducted a number of stakeholder engagement events, memorialized in a Stakeholder Engagement Report, in which members of ABAG POWER expressed a desire for the organization to assist with SB 1383 procurement; and

WHEREAS, ABAG POWER currently aggregates the natural gas needs of 37 public agencies voluntarily participating in the Natural Gas Aggregation Program, and is well positioned to identify SB 1383-compliant RNG for ABAG POWER members and provide or cause to be provided required recordkeeping and related services; and

WHEREAS, the Board of Directors of ABAG POWER desire to establish a voluntary Renewable Natural Gas Program; and

WHEREAS, pursuant to a Contract for Services dated May 30, 2017, between the Metropolitan Transportation Commission (MTC) and the Association for Bay Area Governments (ABAG) ("Contract for Services"), MTC provides staffing services to ABAG, and its Local Collaboration Programs (LCP's), which includes ABAG POWER, and in providing such staffing services, applies MTC rules; and

WHEREAS, pursuant to a Memorandum of Understanding between ABAG and ABAG POWER, executed in 2018, ABAG POWER occasionally may need to develop policies and procedures that differ from MTC's rules to meet programmatic needs; and

WHEREAS, to establish a Renewable Natural Gas Program that is responsive to market demands, the Executive Director of MTC or designee ("ED"), in acting pursuant to the Contract for Services, may be required to negotiate and execute contracts in manner that exceeds the authority of the ED as delegated in MTC Resolution No. 3619, and ABAG Resolution No. 8-2023 ("MTC/ABAG Delegated Authority Limits").

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors of ABAG POWER hereby amends Section 7A.1 Programs, Article 7A – Programs and Program Committee of the Bylaws to add Section 7A.1.3 as shown in *italics* below:

Renewable Natural Gas Program. ABAG POWER hereby approves a Renewable Natural Gas Program to achieve reductions in greenhouse gas emissions, realize cost savings enabled by aggregated purchasing, address the recycling of organic waste, and assist participants with the promotion and use of low carbon fuels.

; and

BE IT FURTHER RESOLVED, that Section 7.A.3 Program Committees, Article 7A – Programs and Program Committee of the Bylaws is here by amended as shown below, with additions in *italics*:

There will be a program committee for each program. A program committee will be comprised of directors equal to ten percent (10%) of the participants. Until more than one program is active, the Executive Committee will serve as the DATA Program Committee. Notwithstanding the foregoing, the Executive Committee will serve as the Program Committee to the Renewable Natural Gas Program.

BE IT FURTHER RESOLVED, the ED, acting pursuant to the Contract for Services, is authorized to negotiate and execute agreements with current members of ABAG POWER to allow ABAG POWER members to participate in the Renewable Natural Gas Program, and the contract amount for such agreements is not subject to MTC/ABAG Delegated Authority Limits, provided payment by the ABAG POWER member is to be used as a deposit for ABAG POWER to draw against for the purchase of the renewable natural gas on behalf of the ABAG POWER member or/and as reimbursement for such purchases; and

BE IT FURTHER RESOLVED, the ED, acting pursuant to the Contract for Services, is authorized to negotiate and execute purchase and sale agreements with suppliers to provide renewable natural gas for the Renewable Natural Gas Program in which ABAG POWER serves as a broker to arrange for the purchase of the renewable natural gas by the ABAG POWER member and/or in which ABAG POWER purchases the renewable natural gas on behalf of the ABAG POWER member and invoices the ABAG POWER member for the cost of the purchase of the renewable natural gas; and in the event that ABAG POWER purchases the renewable natural gas for ABAG POWER Members, such agreements are not subject to the MTC/ABAG Delegated Authority Limits or other contracting procedures established by MTC, but may be subject to contracting procedures established by the ABAG POWER Executive Committee; and

BE IT FURTHER RESOLVED, the ED, acting pursuant to the Contract for Services, is authorized to take other actions necessary or incidental to establishing and implementing the Renewable Natural Gas Program, consistent with this Resolution; and

BE IT FURTHER RESOLVED, the actions taken pursuant to this Resolution are exempt from review under the California Environmental Quality Act (Cal. Public Resources Code, § 21000, et seq.) (“CEQA Guideline”) pursuant to CEQA Guideline 15308, Actions by Regulatory Agencies for Protection of the Environment, because the Renewable Natural Gas Program is to assist its members with compliance with the mandate imposed by SB 1383.

This foregoing was adopted by the Board of Directors at its meeting on this 25th day of May, 2023.

By: _____
Doug Williams, Vice Chair

Certification of Executive Committee Approval

I, the undersigned, the appointed and qualified Secretary of the ABAG Publicly OWned Energy Resources (ABAG POWER), do hereby certify that the foregoing resolution was adopted by the Executive Committee of ABAG POWER at a duly called meeting held on the 25th day of May, 2023.

Jennifer Berg, Secretary
ABAG POWER