

RESOLUTION NO. 24-2001

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, RESCINDING RESOLUTION NOS. 43-99 AND 55-2000; ADOPTING A NEW RESOLUTION RECOGNIZING A CHANGE IN OWNERSHIP AND APPROVING THE TERMS AND CONDITIONS OF A REVISED AGREEMENT BY AND BETWEEN THE CITY OF MESQUITE, TEXAS, AND KAUFMAN COGEN, L.P.; AUTHORIZING ITS EXECUTION BY THE MAYOR; AND PROVIDING AN EFFECTIVE DATE THEREOF.

WHEREAS, on September 20, 1999, by adopting Resolution No. 43-99 the City Council of the City of Mesquite (hereinafter called the "City") authorized the Mayor to execute a commercial/industrial tax abatement agreement between the City of Mesquite, Texas, and Duke Energy Kaufman, L.P. (hereinafter called "Duke"); and

WHEREAS, on December 4, 2000, by adopting Resolution 55-2000 the City recognized and accepted for all purposes connected with the tax abatement agreement between the City and Duke the proposed transition and change in ownership and control of Duke to NRG Energy, Inc., or its affiliates; and

WHEREAS, the City has been presented a proposed revised agreement by and between the City of Mesquite, Texas, and Kaufman Cogen, L.P., for development to be located in the previously established Reinvestment Zone No. Eleven (11) in the City of Mesquite, Texas; and

WHEREAS, the City Council has determined to enter into a revised commercial/industrial tax abatement agreement with Kaufman Cogen, L.P., a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference (hereinafter called "Revised Agreement"); and

WHEREAS, upon full review and consideration of the Revised Agreement, and all matters attendant and related thereto, the City Council is of the opinion that the terms and conditions thereof should be approved and that the Mayor shall be authorized to execute it on behalf of the City of Mesquite.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. That Resolution No. 43-99 adopted by the City Council of the City of Mesquite, Texas, on September 20, 1999, and Resolution No. 55-2000 adopted on December 4, 2000, are hereby rescinded and a new resolution adopted to reflect a change in ownership and approval of a revised tax abatement agreement with Kaufman Cogen, L.P.

SECTION 2. That the terms and conditions of the revised commercial/industrial tax abatement agreement with Kaufman Cogen, L.P. (hereinafter called "Revised Agreement")

00216

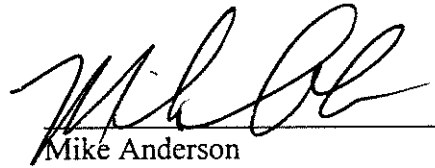
Kaufman Cogen, L.P., Tax Abatement Agreement Revisions/June 5, 2001
Page 2 of 2

having been reviewed by the City Council of the City of Mesquite, Texas, and found to be acceptable in the best interests of the City of Mesquite and its citizens are hereby in all things approved.

SECTION 3. That the Mayor is hereby authorized to execute the Revised Agreement and all other documents in connection therewith on behalf of the City of Mesquite substantially according to the terms and conditions set forth in the Revised Agreement.


SECTION 4. That this resolution shall become effective immediately from and after its passage.

DULY RESOLVED by the City Council of the City of Mesquite, Texas, on the 5th day of June, 2001.




Mike Anderson
Mayor

ATTEST:



Ellen Williams
City Secretary

APPROVED:



B. J. Spith
City Attorney

THE STATE OF TEXAS §
 §
COUNTY OF DALLAS §

AMENDMENT TO TAX ABATEMENT AGREEMENT

This Amendment to Tax Abatement Agreement (the "AMENDMENT") is entered into, by and between the CITY OF MESQUITE, TEXAS, a home rule city and Municipal Corporation of Dallas County, Texas, duly acting herein by and through its Mayor (the "CITY"); and KAUFMAN COGEN LP (formerly known as "DUKE ENERGY KAUFMAN, L.P."), duly acting herein by and through its Managing General Partner (the "OWNER").

WITNESSETH:

WHEREAS, on September 20, 1999, the CITY passed Ordinance No. 3327 (the "ORDINANCE") thereby establishing Reinvestment Zone No. Eleven (11), City of Mesquite, Texas, for commercial/industrial tax abatement (the "ZONE"), as authorized by Chapter 312, V.T.C.A., Tax Code as amended (the "STATUTE"); and

WHEREAS, OWNER has purchased the land constituting the ZONE and proposes to construct a natural gas-fired combined cycle power plant on such site; and

WHEREAS, on September 7, 1999, the CITY passed Resolution No. 39-99 thereby adopting criteria and guidelines governing tax abatement reinvestment zones and agreements (the "CRITERIA"); and

WHEREAS, on September 20, 1999, the CITY passed Resolution No. 43-99 thereby entering into an agreement (the "AGREEMENT") with Duke Energy Kaufman, L.P., as owner

of the proposed power plant, for the abatement of ad valorem taxes pursuant to Section 312.204, V.T.C.A., Tax Code. A copy of the AGREEMENT is attached hereto as Exhibit "A"; and

WHEREAS, OWNER will make application for change in zoning of the land constituting the ZONE to permit the construction, testing and commercial operation of the natural gas-fired combined cycle power plant on such site to conform to the CITY's Comprehensive Zoning Ordinance, as set forth in the CRITERIA; and

WHEREAS, on December 4, 2000, the CITY passed Resolution No. 55-2000 (the "CHANGE IN CONTROL RESOLUTION") thereby recognizing and accepting for purposes of the AGREEMENT the change in ownership and control of Duke Energy Kaufman, L.P., to affiliates of NRG Energy, Inc. (the "NRG"), conditioned upon such change in ownership and control becoming effective before January 1, 2001; and

WHEREAS, on December 20, 2000, all of the outstanding general partnership interests and limited partnership interests in OWNER were purchased by NRG KAUFMAN LLC and NRG MESQUITE LLC, which entities are affiliates of NRG, constituting the change in ownership and control approved by the CHANGE IN CONTROL RESOLUTION; and

WHEREAS, the name of OWNER has been changed to Kaufman Cogen LP; and

WHEREAS, commencement of construction of the proposed power plant was delayed prior to the change in ownership and control of OWNER, and

WHEREAS, in view of the delay in commencement of construction of the proposed power plant, and in order that OWNER may be assured of the availability of the inducements of

the AGREEMENT to OWNER upon OWNER'S fulfilling all of the conditions of the AGREEMENT, OWNER has requested that the AGREEMENT be amended to:

- (i) Extend the date for OWNER'S commencement of construction of the proposed power plant;
- (ii) Extend the date for the anticipated substantial completion of the power plant; and
- (iii) Clarify and amend the average number of persons anticipated to be employed; and

WHEREAS, it is reasonably likely that the AGREEMENT as amended by this AMENDMENT will assist the CITY in maintaining and/or enhancing the commercial/industrial economic and employment base of the Mesquite area to the long term interest and benefit of the CITY in accordance with said ORDINANCE and STATUTE.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. Paragraph 2 of the AGREEMENT is amended and restated to read in its entirety as follows:

The OWNER proposes to make improvements to the PREMISES by the construction of a power generation facility, with an anticipated total investment cost of one hundred seventy million dollars (\$170,000,000). The proposed improvements consist of the components described in Exhibit "C", attached hereto, together with all necessary buildings, auxiliary equipment and infrastructure facilities and appurtenances and related items of fixed tangible personal property, including standby

components for all of the foregoing items, reasonably necessary to allow the facility to operate for its intended purpose (the "IMPROVEMENTS"). OWNER may revise the plans and specifications for the IMPROVEMENTS prior to and during construction, provided that the IMPROVEMENTS as finally constructed will be of substantially the same character as described herein and in Exhibit "C." The current budgeted cost of the IMPROVEMENTS is based on present engineering estimates, which are subject to revision as engineering and construction work proceeds. If the project is undertaken, OWNER agrees to begin construction of the IMPROVEMENTS within three (3) years of the execution of this AGREEMENT, and OWNER anticipates that the IMPROVEMENTS will be substantially completed by Summer 2004 and will create employment for an average of eighteen (18) persons. The DATE OF COMPLETION of the IMPROVEMENTS shall be defined as the date on which the IMPROVEMENTS are placed into service and the OWNER commences generation of electricity.

2. The address of OWNER for notices set forth in Paragraph 12 of the AGREEMENT is hereby amended and restated to read as follows:

To OWNER:


Kaufman Cogen L.P.
10719 Airline Hwy.
Baton Rouge, LA 70816
Attention: Kaufman Project Manager

3. Except as amended hereby, the AGREEMENT shall remain unchanged and the terms, conditions and covenants of the said AGREEMENT, as the same may be

amended hereby, are ratified and confirmed in all respects and shall be continuing and binding upon the parties.

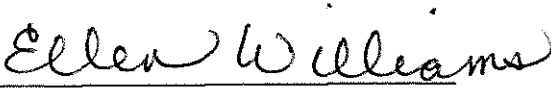
- 4. This AMENDMENT shall constitute a valid and binding agreement between the CITY and Kaufman Cogen LP, when executed in accordance herewith. This AMENDMENT is performable in Kaufman County, Texas, witness our hands this 5 th day of June, 2001.

CITY OF MESQUITE, TEXAS



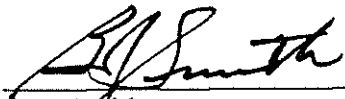
 Mike Anderson
 Mayor

ATTEST:



 Ellen Williams
 City Secretary

APPROVED:



 B. J. Smith
 City Attorney

OWNER

Kaufman Cogen LP

By: NRG Kaufman LLC,
Managing General Partner

By: _____

Name: _____

Title: _____

ATTEST:

Name: _____