

RESOLUTION NUMBER R- 300127

ADOPTED ON FEB 14 2005

A RESOLUTION AUTHORIZING A FIRST AMENDMENT TO LIQUID NATURAL GAS PURCHASE AGREEMENT; AUTHORIZING AN AGREEMENT TO TERMINATE LANDFILL GAS LEASE AND OPERATING AGREEMENT AND CONVERSION SYSTEM SITE LEASE AGREEMENT; AND APPROPRIATING AND EXPENDING FUNDS IN CONNECTION WITH THE LANDFILL GAS COLLECTION SYSTEM AT THE SOUTH CHOLLAS LANDFILL.

WHEREAS, on December 6, 2000, the City entered into three related agreements to facilitate a research and development project at the South Chollas Landfill. Those agreements are: (1) the Landfill Gas Lease and Operating Agreement Relating to the South Chollas Landfill between the City and Golden Spread South Chollas LLC on file in the Office of the City Clerk as Document No. RR-294293-2 [Landfill Gas Lease and Operating Agreement]; (2) the Conversion System Site Lease Relating to the South Chollas Landfill between the City and Tech-San South Chollas Energy, LLC on file in the Office of the City Clerk as Document No. RR-294293-1 [Conversion System Site Lease]; and (3) the LNG Purchase Agreement between the City and Applied LNG Technologies USA LLC on file in the Office of the City Clerk as Document No. RR-294293-3 [LNG Purchase Agreement];

WHEREAS, the Landfill Gas Lease and Operating Agreement and the Conversion System Site Lease were entered into for purposes of collecting and extracting methane gas from the South Chollas Landfill [Landfill] and installing and operating a system which converts methane gas from the Landfill into liquefied natural gas [LNG], respectively. The LNG Purchase Agreement, which is independent of those two agreements, was entered into for purposes of

ensuring delivery to the City of a sufficient supply of liquefied natural gas to operate the City's fleet of refuse collection vehicles;

WHEREAS, at the time of the above-referenced agreements, the parties recognized that the production of LNG from landfill gas had not been previously demonstrated on a commercial basis and, ultimately, the production of LNG from the Landfill gas did not develop into a viable research and development project.

WHEREAS, the LNG Purchase Agreement currently expires on December 6, 2005, and the City requires a reliable source of LNG through 2007.

WHEREAS, because the research and development project is no longer viable and because the City requires a reliable source of LNG through 2007, it is in the best interests of the City to terminate the Landfill Gas Lease and Operating Agreement and the Conversion System Site Lease and to amend the LNG Purchase Agreement; NOW THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the City Manager is hereby authorized and empowered to execute, for and on behalf of the City, a first amendment to the LNG Purchase Agreement with Applied LNG Technologies, USA, LLC, to purchase liquid natural gas, under the terms and conditions set forth in the First Amendment to LNG Purchase Agreement, on file in the office of the City Clerk as Document Number RR-

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BE IT FURTHER RESOLVED, that the City Manager is further authorized and empowered to execute, for and on behalf of the City, an agreement with Golden Spread South Chollas, LLC, and Tech-San South Chollas Energy, LLC, to terminate the Landfill Gas Lease and Operating Agreement and Conversion System Site Lease agreement relating to the South Chollas Landfill, under the terms and conditions set forth in the Agreement to Terminate

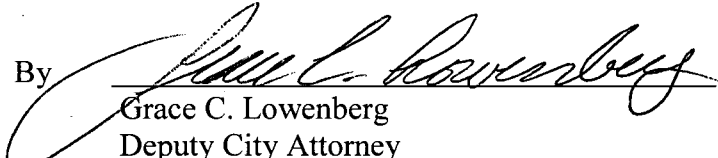
said agreements, on file in the office of the City Clerk as Document Number RR-

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BE IT FURTHER RESOLVED, that the City Auditor and Comptroller is hereby authorized to appropriate and expend an amount not to exceed \$75,000 from Fund No. 30244, CIP 32-018.0, in connection with the above-referenced First Amendment and Agreement to Terminate, solely and exclusively for work performed on the landfill gas collection system at the South Chollas Landfill.

APPROVED: MICHAEL J. AGUIRRE, City Attorney

By

  
Grace C. Lowenberg  
Deputy City Attorney

GCL:mb  
01/25/05  
Aud.Cert:2500683  
Or.Dept:ESD  
R-2005-778

**The City of San Diego  
CERTIFICATE OF CITY AUDITOR AND COMPTROLLER**

**CERTIFICATE OF UNALLOTTED BALANCE**

ORIGINATING

AC 2500683  
DEPT. \_\_\_\_\_  
NO. 7521

I HEREBY CERTIFY that the money required for the allotment of funds for the purpose set forth in the foregoing resolution is available in the Treasury, or is anticipated to come into the Treasury, and is otherwise unallotted.

Amount: \_\_\_\_\_ Fund: \_\_\_\_\_

Purpose: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_ By: \_\_\_\_\_

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
TOTAL AMOUNT										

FUND OVERRIDE

**CERTIFICATION OF UNENCUMBERED BALANCE**

I HEREBY CERTIFY that the indebtedness and obligation to be incurred by the contract or agreement authorized by the hereto attached resolution, can be incurred without the violation of any of the provisions of the Charter of the City of San Diego; and I do hereby further certify, in conformity with the requirements of the Charter of the City of San Diego, that sufficient moneys have been appropriated for the purpose of said contract, that sufficient moneys to meet the obligations of said contract are actually in the Treasury, or are anticipated to come into the Treasury, to the credit of the appropriation from which the same are to be drawn, and that the said money now actually in the Treasury, together with the moneys anticipated to come into the Treasury, to the credit of said appropriation, are otherwise unencumbered.

Not to Exceed: \$75,000.00

Vendor: Applied LNG Technologies USA, LLC

Purpose: Authorizing the expenditure of funds for the first amendment to the South Chollas Landfill Gas Lease and Liquefied Natural Gas (LNG) Purchase Agreements.

Date: January 25, 2005 By: *Felicit Barrera*

AUDITOR AND COMPTROLLER'S DEPARTMENT

ACCOUNTING DATA										
ACCTG. LINE	CY PY	FUND	DEPT	ORG.	ACCOUNT	JOB ORDER	OPERATION ACCOUNT	BENF/ EQUIP	FACILITY	AMOUNT
1	0	30244	30244	113	4278	320180				\$75,000.00
TOTAL AMOUNT										\$75,000.00

FUND OVERRIDE

AC-361 (REV 2-92)

*R* - 300127

FEB 14 2005

AC 2500683