

#100  
12/06/22  
(R-2023-249)

RESOLUTION NUMBER R- 314482

DATE OF FINAL PASSAGE DEC 14 2022

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO APPROVING A FIRST AMENDMENT TO A CONTRACT WITH WESTAIR GASES & EQUIPMENT, INC. FOR THE PURCHASE OF LIQUID OXYGEN TO ALLOW FOR PRICE INCREASES RELATED TO COSTS OF RAW MATERIALS.

WHEREAS, the City of San Diego (City's) Public Utilities Department (Department) operates water facilities which require certain chemicals as part of the treatment process; and

WHEREAS, one of the required chemicals is liquid oxygen, which is used for treatment and disinfection of water; and

WHEREAS, in March 2018, City issued Invitation to Bid No. 10089356-18-J for liquid oxygen, and WestAir Gases & Equipment, Inc., (Contractor) was the only bidder; and

WHEREAS, the Council of the City San Diego (Council) authorized a contract between the City and Contractor with an effective date of November 2, 2018, for liquid oxygen, in an amount not to exceed \$4,551,450 (Contract) by San Diego Resolution R-311989 (October 10, 2018); and

WHEREAS, since the submission of the bid, and the approval of the Contract, the Contractor has experienced unanticipated rises in costs of the raw materials necessary to make liquid oxygen as a result of COVID-19, supply chain issues, and other world events; and

WHEREAS, Contractor has approached City and requested that City agree to an increase in the pricing for liquid oxygen in order to allow Contractor to continue to deliver the required chemical to the City's facilities; and

WHEREAS, the City's Purchasing and Contracting Department reviewed the materials submitted by the Contractor to support its request for an increase in pricing, and conducted its

own research and determined that there has been a significant increase in costs for the raw materials for this chemical; and

WHEREAS, the Department and the Purchasing and Contracting Department determined that the increased price is appropriate based on the market data, and have determined that due to the time sensitive critical need of this chemical, it would not be advantageous to the City to use a competitive process to obtain another contractor; and

WHEREAS, City staff negotiated a first amendment to the Contract to allow the pricing for liquid oxygen to be increased effective July 1, 2022 to \$0.69 per gallon, subject to temporary pricing increases or decreases as more fully set forth in the First Amendment to Bulk Liquid Oxygen for Public Utilities Department Water Systems Operations which is included in the staff materials accompanying this resolution (First Amendment); and

WHEREAS, the increase in the pricing will not result in the compensation being paid under the Contract exceeding the amount previously appropriated by the Council for the five-year term; and

WHEREAS, the Office of the City Attorney has drafted this resolution based on the information provided by City staff including information provided by affected third parties and verified by City staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, as follows:

1. That the First Amendment, which once signed by all Parties will be on filed with the City Clerk as Document No. 314482 is approved.

2. That the Mayor or designee is authorized to sign and deliver the First Amendment to the Contract.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Melissa D. Ables  
Melissa D. Ables  
Chief Deputy City Attorney

MDA:cw  
October 30, 2022  
Or.Dept: Public Utilities Department  
CC No.: N/A  
Doc. No.: 3129481

I certify that the foregoing Resolution was passed by the Council of the City of San Diego, at this meeting of DEC 06 2022

ELIZABETH S. MALAND  
City Clerk

By Kristel Medina  
Deputy City Clerk

Approved: 12/14/22  
(date)

Todd Gloria  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on DEC 06 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage DEC 14 2022

**(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)**

AUTHENTICATED BY:

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

(Seal)

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

By Kristell Medina, Deputy

Office of the City Clerk, San Diego, California  
**314482**  
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