

**Meeting Date:** 4/5/2016

**Report Type:** Consent

**Report ID:** 2016-00342

**Title: Contract: Compressed Natural Gas and Renewable Natural Gas (Two-Thirds Vote Required)**

**Location:** Citywide

**Recommendation:** Pass a Resolution 1) suspending competitive bidding in the best interests of the City; 2) authorizing the City Manager or the City Manager's designee to execute a three-year contract with Clean Energy for the purchase of compressed natural gas (CNG) and renewable natural gas (RNG) in an amount not to exceed \$953,655 provided that sufficient funds are available in the budget adopted for the applicable fiscal year; and 3) ratifying prior purchases of CNG and RNG made in FY2015/16 from Clean Energy in the amount of \$50,051.

**Contact:** Iseña Garcia, Program Specialist, (916) 808-1163; Mark Stevens, Fleet Manager, (916) 808-5869, Department of Public Works

**Presenter:** None

**Department:** Public Works Department

**Division:** Fleet Management

**Dept ID:** 15003211

**Attachments:**

1-Description/Analysis

2-Resolution

3-Agreement

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### **City Attorney Review**

Approved as to Form  
Gary Lindsey  
3/30/2016 10:42:55 AM

### **Approvals/Acknowledgements**

Department Director or Designee: Jerry Way - 3/15/2016 3:55:12 PM

## **Description/Analysis**

**Issue Detail:** The Department of Public Works, Fleet Management Division, has purchased approximately 27 CNG vehicles to meet the requirement specified in the Fleet Sustainability Policy to purchase a minimum of 30 percent alternative fueled vehicles for replacement vehicles. These vehicles can also use RNG. Fleet Management has an ongoing requirement to provide CNG or RNG; however, the City does not currently own a fuel station that can dispense these fuel types. The City has a contract (Contract No. C2013-0851) with Regional Transit which is used to purchase CNG for vehicles that operate in the north area of the City. The recommended contract will provide the authority to purchase CNG and RNG for vehicles operating in the south area of the City.

Since July 14, 2015, the City has been purchasing CNG and RNG from Clean Energy under Purchase Order (PO) No. 29098, originally executed under City Manager authority in the amount of \$98,500. During this time Fleet Management has been working with Clean Energy on a new contract in an amount sufficient to meet the current, increased demand for CNG and RNG. However, in order to prevent an interruption in City services, purchases in a total amount of \$150,050 have now been made on PO No. 29098. This report recommends ratifying purchases in the amount of \$50,051, the amount of PO No. 29098 in excess of City Manager authority.

**Policy Considerations:** The recommendations in this report are in accordance with City Code Chapter 3.56.

**Economic Impacts:** None

### **Environmental Considerations:**

**California Environmental Quality Act (CEQA):** No environmental review is necessary because the recommendations in this report involve the purchase of CNG and RNG for City vehicles and are not considered to be a project in accordance with Section 15378(b)(2) of the CEQA guidelines.

**Sustainability:** The recommendations in this report are consistent with the Fleet Sustainability Policy adopted by City Council on February 16, 2010 (Resolution No. 2010-083). The City will have the option to purchase RNG as it is available. RNG is a type of CNG that is generated from organic food waste collected from local restaurants, supermarkets and food-processing companies. Clean Energy will supply the City with a minimum of 30 percent RNG each quarter, subject to production.

**Commission/Committee Action:** None

**Rationale for Recommendation:** The recommended contract will allow the City to purchase CNG and RNG using Clean Energy's fuel site at the Atlas Refuel South Transfer Station. Suspending competitive bidding is recommended because this location is the only CNG fuel

site that offers accessibility to City vehicles operating in the south area of the City, and has the ability to provide RNG. Ratifying prior purchases under PO No. 29098 in the amount of \$50,051 is recommended because those purchases were made during contract negotiations with Clean Energy in order to prevent an interruption in City services. If these purchases had not been made, vehicles operating in the south area of the City would have had to travel approximately 30 miles roundtrip to refuel at the Regional Transit fuel site in the north area instead of the 12 mile roundtrip to Clean Energy’s fuel site. This would have caused an increase in 1) fuel usage and city expense; 2) refueling time; and 3) traffic congestion and greenhouse gas emissions.

**Financial Considerations:** As a result of gradually placing 27 new vehicles into service since 2014, the need for CNG fuel has increased substantially with annual expenditures now exceeding \$100,000. Fleet Management has determined that the City Manager’s authority under PO No. 29098 has been exceeded by \$50,051 due to an unanticipated level of seasonal operations during the contract negotiation process.

In determining the spending authority for the recommended contract, Fleet Management reviewed prior expenditures and considered future needs. The recommended not-to-exceed amount includes a 20 percent contingency to allow for additional purchases of replacement CNG vehicles. The cost to the City for CNG and RNG under the recommended contract is subject to change as Clean Energy’s pricing changes. The cost per gasoline gallon equivalent (GGE) is based on Pacific Gas and Electric Company (PG&E) Compressed Natural Gas Service (G-NGV2) rates published on the PG&E Rate Finder and Schedule, plus a Public Purpose Program (PPP) Surcharge.

Purchases under the recommended contract will be made from the DPW operating budget (Fleet Fund, Fund 6501) and charged to the operating budget of the customer department. Sufficient funds are available in the DPW FY2015/16 operating budget for purchases through June 30, 2016. Purchases made after June 30, 2016 and through the duration of the contract are subject to funding availability in the adopted budget of the applicable fiscal year. Sufficient funds are available in the customer department operating budgets.

<b>Estimated Expenditures – CNG and RNG Fuel</b>				
Vendor	Year 1	Year 2	Year 3	Total
Clean Energy	\$317,885	\$317,885	\$317,885	\$953,655

**Local Business Enterprise (LBE):** Clean Energy is not an LBE. The minimum LBE participation requirement is waived as the City has suspended competitive bidding and utilized an alternate procurement method to select a vendor.

## **RESOLUTION NO. 2016-**

Adopted by the Sacramento City Council

April 5, 2016

### **SUSPENDING COMPETITIVE BIDDING FOR THE PURCHASE OF COMPRESSED NATURAL GAS AND RENEWABLE NATURAL GAS**

#### **BACKGROUND**

- A. The Department of Public Works, Fleet Management Division, has purchased approximately 27 compressed natural gas (CNG) vehicles to meet the requirement specified in the Fleet Sustainability Policy (Resolution No. 210-083) to purchase a minimum of 30 percent alternative fueled vehicles for replacement vehicles. As a result of placing these vehicles, which can also use renewable natural gas (RNG), into service, Fleet Management has an ongoing requirement to provide CNG or RNG; however, the City does not currently own a fuel station that can dispense these fuel types. The City has a contract (Contract No. C2013-0851) with Regional Transit which is used to purchase CNG for vehicles that operate in the north area of the City. The recommended contract will provide the authority to purchase CNG and RNG for vehicles operating in the south area of the City.
- B. Since July 14, 2015, the City has been purchasing CNG and RNG from Clean Energy under Purchase Order (PO) No. 29098, originally executed under City Manager authority in the amount of \$98,500. During this time Fleet Management has been working with Clean Energy on a new contract in an amount sufficient to meet the current, increased demand for CNG and RNG. However, in order to prevent an interruption in City services, purchases in a total amount of \$150,050 have now been made on PO No. 29098. Ratifying prior purchases under PO No. 29098 in the amount of \$50,051 is recommended because those purchases were made during contract negotiations with Clean Energy in order to prevent an interruption in City services.
- C. Suspending competitive bidding is recommended because Clean Energy's fuel site at the Atlas Refuel South Transfer Station is the only CNG fuel site that offers accessibility to City vehicles operating in the south area of the City, and has the ability to provide RNG.

**BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL**

**RESOLVES AS FOLLOWS:**

- Section 1. It is in the best interests of the City to suspend competitive bidding for the purchase of CNG and RNG.
- Section 2. Competitive bidding is hereby suspended for the purchase of CNG and RNG.
- Section 3. The City Manager or the City Manager's designee is authorized to execute a three-year contract with Clean Energy for the purchase of CNG and RNG in an amount not to exceed \$953,655 provided that sufficient funds are available in the budget adopted for the applicable fiscal year.
- Section 4. Purchases of CNG and RNG made in FY2015/16 from Clean Energy in the amount of \$50,051 are ratified.



Requires Council Approval:  No  YES

Meeting: 4/5/16

Real Estate

Other Party Signature Needed

Recording Requested

General Information

Type: Commodity PO Type: N/A	Attachment: No.:
Not to Exceed: \$953,653	Original Doc Number:
Other Party: Clean Energy	Certified Copies of Document:
Project Name: CNG Fuel Price Agreement	Deed: <input checked="" type="checkbox"/> None <input type="checkbox"/> Included <input type="checkbox"/> Separate
Project Number: Bid Transaction #: N/A	E/SBE-DBE-M/WBE:

Department Information

Department: Public Works

Division: Fleet Management

Project Mgr: Iseña Garcia

Contract Services: N/A

Division Mgr: Mark Stevens

Phone Number: 808-1163

Org Number: 15003311

Comment: Original Contract Amount: N/A

Review and Signature Routing

Department	Signature or Initial	Date
Project Mgr:	JH	2/29/16
Contract Services:		

City Attorney	Signature or Initial	Date
City Attorney:	AZ	2/29/16

Send Interoffice Mail to Iseña Garcia (12500)

Notify for Pick Up: Iseña Garcia - 808-1163

Authorization	Signature or Initial	Date
Jerry Way Director, Public Works:		
City Mgr: Yes <input type="checkbox"/> No <input type="checkbox"/>		

Contract Cover/Routing Form: Must Accompany ALL Contracts; however, is not part of the contract. (01-01-09)  
(Under \$100K - Blue)

<b>For City Clerk Processing</b>	
<b>Finalized:</b>	
Initial:	
Date:	
<b>Imaged:</b>	
Initial:	
Date:	
<b>Received:</b> (City Clerk Stamp Here)	

## CNG FUEL PRICE AGREEMENT

Effective Date	
Customer	City of Sacramento, a municipal corporation
Term	Commences on the Effective Date and ends on the 3 year anniversary of the Effective Date. The Agreement may be extended for two (2) consecutive (1) year terms upon the mutual written agreement of the Parties prior to the commencement of the renewal term.
Station	The Atlas Refuel South Area Transfer Station located at 8550 Fruitridge Rd., Sacramento, CA 95826.
Fuel Type	Compressed natural gas ("CNG") or Renewable Compressed Natural Gas ("RNG")
Gallon Equivalent	Gasoline gallon equivalent ("GGE")
Fuel Price	Customer's price per GGE for purchases of CNG or RNG from the Station is based on Pacific Gas and Electric Company ("PG&E") Compressed Natural Gas Service ("G-NGV2") rates published on PG&E Rate Finder and Schedule. The Rate Finder and Schedule are updated monthly and are published at <a href="http://www.pge.com/notes/rates/tariffs/GRF.SHTML">http://www.pge.com/notes/rates/tariffs/GRF.SHTML</a> . Customer's price per GGE for purchases of fuel from the Station will be billed at the monthly PG&E G-NGV2 Gasoline Gallon Equivalent plus Public Purpose Program ("PPP") Surcharge.  Fuel transactions will be billed monthly for prior month and shall provide transaction detail by date and quantity. The amount of RNG supplied to Customer from the Station will be provided to Customer within ninety (90) days after the end of each calendar quarter.
Special Provisions	Customer shall purchase CNG or RNG from the Station on an "as needed" basis, up to a total amount not-to-exceed \$953,653. Unless such not to exceed amount is increased by an amendment to this Agreement: (a) this Agreement shall automatically terminate upon CE's receipt of \$953,653, cumulatively, from Customer under this Agreement; and (b) the City shall not purchase more than \$953,653 of CNG and RNG, cumulatively, under this Agreement.  CE agrees to supply Customer with a minimum of 30% RNG each quarter, subject to production.

This Fuel Price Agreement ("Agreement") is entered into on the Effective Date between Customer and Clean Energy, a California corporation ("CE") located at 4675 MacArthur Court, Suite 800, Newport Beach, California 92660. Customer and CE are referred to collectively as the "Parties" and individually as a "Party". The Parties desire to establish rates for Customer's purchase of the Fuel Type for its natural gas vehicles. The Parties hereby agree to the following:

### 1. Fuel Price.

Customer shall pay CE the Fuel Price for each Gallon Equivalent of the Fuel Type sold to Customer at the Station. Customer shall complete the Fuel Card Application (attached as Exhibit A) and comply with its terms and conditions. CE will invoice Customer directly and Customer must pay each invoice within 30 days of the invoice date. Customer will not fuel its vehicles at any Station until it has completed all training required by CE.

### 2. Term and Termination.

The term of this Agreement shall begin on the Effective Date. CE may terminate this Agreement at any time upon 30 days written notice to Customer. However, notwithstanding anything to the contrary in this Agreement, in the event the CNG Facility Marketing Services Agreement, dated July 18, 2013, by and between Atlas ReFuel, LLC and Clean Energy (the "Base Agreement") is terminated, this Agreement shall automatically terminate on the effective date of termination of the Base Agreement. CE shall provide Customer with a written notice which specifies the effective date of termination of the Base Agreement.

### 3. Miscellaneous

Customer may not assign any of its rights or delegate its performance arising under or relating to this Agreement, whether by merger, operation of law or otherwise, to a third party without CE's prior written consent. All matters arising under or relating to this Agreement will be governed by the laws of the State of California, notwithstanding conflicts of law rules. Neither Party shall have any liability to the other Party for incidental, special or consequential damages, including lost profits and business interruption damages, arising under this Agreement or the transactions contemplated hereby. Each Party giving a notice under this Agreement will give the notice in writing and delivered via personal delivery or overnight carrier to the Party's address set forth in this Agreement or to such other address designated by such Party. No change, amendment or modification of any of the provisions of this Agreement will be binding unless in writing that identifies itself as an amendment to this Agreement. This Agreement constitutes the final agreement between the Parties and supersedes all prior and contemporaneous negotiations and agreements relating to the subject matter of this Agreement. This Agreement may be executed in one or more counterparts, with the same

effect as if the parties had signed the same document. Each counterpart so executed will be deemed to be an original, and all such counterparts will be construed together and will constitute one agreement

By directing their authorized representative to execute below, the Parties hereby agree to be bound by this Agreement.

**CLEAN ENERGY**

By:   
Name: Peter Grace  
Title: SVP Sales & Finance  
Address: 4675 MacArthur Court, Suite 800  
Newport Beach, CA 92660

**CUSTOMER**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

APPROVED AS TO FORM:

 2/29/2016  
CITY ATTORNEY

