

101098

AN ORDINANCE

AUTHORIZING THE CITY MANAGER, INTERIM CITY MANAGER, OR HIS DESIGNEE TO NEGOTIATE AND APPROVE: (A) A NELSON GARDENS LANDFILL SUBLEASE AGREEMENT BETWEEN SAN ANTONIO LGP, L.L.C., (SALGP) AND SYNCHRO ENERGY, LTD. (SYNCHRO); (B) FURTHER AMENDMENT TO THE ORIGINAL GAS RIGHTS AGREEMENT BETWEEN THE CITY AND SALGP; AND (C) EVENTUAL ASSIGNMENT OF THE MASTER LEASE FROM SALGP TO SYNCHRO; THEREBY APPROVING NEGOTIATION OF A REDUCTION IN THE SUPPLEMENTAL SITE RENTAL AMOUNT FROM TEN PERCENT (10%) OF THE ACTUAL GROSS REVENUES, RECEIVED FROM THE SALE OF ENERGY, TO FIVE PERCENT (5%) OF THE ACTUAL GROSS REVENUES TO FACILITATE THE CONSTRUCTION AND OPERATION OF A FACILITY FOR PROCESSING LANDFILL GAS INTO ELECTRICITY FOR SALE TO CPS ENERGY.

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WHEREAS, this Ordinance authorizes negotiations to effect changes to a master agreement under which the City of San Antonio has utilized an environmental remediation lease arrangement with various private entities since the late 1980's in order to mitigate effects of methane landfill gas produced at the Nelson Gardens closed landfill, which waste emissions must be controlled to meet regulatory compliance requirements of state and federal clean air statutes; and to this end, the City entered an exclusive agreement with San Antonio Landfill Gas Project (SALGP, LLC), contracting in 1997 for the City to receive benefits from construction of a waste gas collection and control system in consideration for certain lease payments from the lessee to the City, which understanding allows the lessee to benefit from federal tax credits; and

WHEREAS, the underlying master lease anticipates and provides for an eventual beneficial reuse project to recycle the waste gas into either a consumable gas fuel or electric power; yet, given a history of volatile market conditions, such project has not been feasible until now; and

WHEREAS, the lease holder, SALGP, LLC, has tendered a candidate, Synchro Energy, LTD (Synchro), as a potential sublessee to perform the beneficial reuse project, which candidate Synchro appears to possess credentials and experience necessary to implement the reuse project to convert waste gas to electric energy for sale to CPS Energy; and, such negotiated sublease arrangement would at least entail adjustment and amendment to the master lease's compensation formula; and

WHEREAS, the proposal, enabling beneficial use of the waste gas, includes an option for Sychro to fully succeed by assignment to the master lease as well as perform the sublease obligations for the reuse project, which succession to master lease status would be further contingent upon federal rules governing tax credits; all to be negotiated to the City and the various parties' mutual benefits within 120 (one hundred and twenty) days following Council approval of this Ordinance; **NOW THEREFORE**;

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City Manager, interim or otherwise, or his / her designee, is hereby authorized to negotiate amendment terms and conditions to one certain agreement, which adjustments are necessary to the Restated Landfill Gas Lease and Operating Agreement between the City and San Antonio Landfill Gas Project (SALGP, LLC) to enable performance of a beneficial use / re-use project using landfill waste gas generated at the City's Nelson Garden closed municipal landfill; specifically, the intended reuse project would convert waste methane gas into saleable electricity using a new electric generating facility to be installed on subleased property within the landfill site, which installation is to be accomplished by Sychro Energy, LLC, the potential sublessee tendered by SALGP for such purpose; further contingent upon successful negotiations among the parties to adjust the existing master lease's compensation formula from 10% to 5% of actual gross revenue due the City from sale of electricity to CPS Energy; and, further adjusting terms and conditions to enable Sychro to eventually succeed to the master lease, thereby assuming all rights and obligations now necessary to operate and maintain the waste gas collection system presently managed by SALGP, which succession and assignment would further depend on the status of federal tax law that would otherwise cause SALGP to abandon the lease as is now permissible under terms of the existing lease agreement.

SECTION 2. Upon completion of successful negotiations, to the City's benefit, the City Manager, interim or otherwise, or his / her designee, is authorized to execute all documents necessary to effect the reuse project, amend the master lease as described above, and with concurrence and advice from the Office of the City Attorney, perform any and all acts appropriate to effect this Ordinance; which authority to manage negotiations, effect and execute all such necessary instruments shall terminate one hundred and twenty (120) days from the date this Ordinance is passed and approved, provided such negotiations have not yet resulted in executed instruments to the City's benefit.

SECTION 3. The consent granted in this Ordinance is contingent upon the good standing of all parties to the lease, all financial obligations, lease terms and conditions, and lien requirements being fulfilled and satisfied.

SECTION 4. The following financial adjustments are authorized as follows:

To effect the intent and direction of this Ordinance, upon the successful completion of negotiations and execution of all documents necessary to the sublease, if any, amendment of the master lease, assignment of the master lease, and adjustment of compensation due the City, the

Director of Finance, with concurrence from the City Manager, is authorized to create and adjust any and all funds, index numbers, effect fund transfers, and take all steps necessary to carry out the authority granted by this Ordinance.

SECTION 5. This Ordinance shall be effective on July 10, 2005.

PASSED and **APPROVED** this 30th day of June, 2005.

Attest: *Leticia Y. Reed*
City Clerk

Phil Fordhoyer
MAYOR

Approved as to form: *Sally Clark Farris*
for City Attorney

Agenda Voting Results

Name: 21.

Date: 06/30/05

Time: 04:11:30 PM

Vote Type: Multiple selection

Description: An Ordinance authorizing the Interim City Manager or his designee to negotiate and approve: (a) a Nelson Gardens Landfill sublease agreement between San Antonio LGP, L.L.C., (SALGP) and Synchro Energy, Ltd. (Synchro); (b) further amendment to the original Gas Rights Agreement between the City and SALGP; and (c) eventual assignment of the Master Lease from SALGP to Synchro; thereby approving negotiation of a reduction in the supplemental site rental amount from ten percent (10%) of the actual gross revenues, received from the sale of energy, to five percent (5%) of the actual gross revenues to facilitate the construction and operation of a facility for processing landfill gas into electricity for sale to CPS Energy. [Presented by Daniel V. Cárdenas, Director, Environmental Services; Melissa Byrne Vossmer, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1	Not present			
SHEILA D. McNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3	Not present			
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10	Not present			
MAYOR PHIL HARDBERGER	MAYOR		x		