

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AND AWARDED A SERVICE AGREEMENT TO NuCO<sub>2</sub>, INC. FOR THE RENTAL OF THREE 1,000 LB. CARBON DIOXIDE TANKS AND THE WEEKLY PROVISION OF CO<sub>2</sub> FOOD GRADE MICRO BULK TO THE MORGAN HILL AQUATICS CENTER AND THE CENTENNIAL RECREATION CENTER AND AUTHORIZING THE CITY MANAGER TO EXECUTE THAT CERTAIN AGREEMENT**

WHEREAS, the City of Morgan Hill, a municipal corporation and general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California (“City”), is authorized to enter into contracts and agreements for the benefit of the City; and

WHEREAS, the reasons supporting the entrance of the City into that certain agreement described in, and that are the subject of, this Resolution are set forth in that certain City Council Staff Report entitled, “AWARD CO<sub>2</sub> FOOD GRADE BULK SERVICE AGREEMENT,” submitted for City Council consideration at its meeting of October 19, 2016, submitted to the City Council by the City Manager (the “Staff Report”), the contents of which Staff Report are incorporated herein by this reference; and

WHEREAS, the consideration by City Council of the adoption of this Resolution has been duly noticed pursuant to the application laws and has been placed upon the City Council Meeting Agenda on the date set forth in the Staff Report, or to such date that the City Council may have continued or deferred consideration of this Resolution, and on such date the City Council conducted a duly noticed public meeting at which meeting the City Council provided members of the public an opportunity to comment and be heard and considered any and all testimony and other evidence provided in connection with the adoption of this Resolution; and

WHEREAS, the activities allowed under this Resolution are categorically exempt from the provisions of the California Environmental Quality Act of 1970 per California Code of Regulations (CCR), Title 14, Section 15301, Existing Facilities; and

WHEREAS, the City Council determines that adoption of this Resolution is in the public interest.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

Section 1. Recitals. The City Councils does hereby find, determine and resolve that all of the foregoing recitals are true and correct.

Section 2. Approval and Authorization. The City Council does further resolve, order and/or direct as follows:

- a. NuCO<sub>2</sub>, Inc., is awarded the Service Agreement for the rental of three 1,000 lb. carbon dioxide tanks and for the weekly or biweekly provision of CO<sub>2</sub> food grade micro bulk to the Morgan Hill Aquatics Center and the Centennial Recreation Center.
- b. That the Service Agreement with NuCO<sub>2</sub>, Inc., for the rental of three 1,000 lb. carbon dioxide tanks and for the weekly or biweekly provision of CO<sub>2</sub> food grade micro bulk to the Morgan Hill Aquatics Center and the Centennial Recreation Center, substantially in the form attached hereto as Exhibit A and incorporated herein by this reference (the “Agreement”) is hereby approved; and
- c. That the City Manager is hereby delegated authority to and is authorized and directed to further negotiate and execute the Agreement substantially in the form attached hereto as Exhibit A, provided, specifically, that the total amounts to be paid by City under the Agreement shall in no event exceed one hundred thousand dollars (\$100,000.00) for Service Provider;

Section 3. This Resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED** by the City Council of the City of Morgan Hill at its meeting held on this 19th day of October 2016 by the following vote:

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

**COUNCIL MEMBERS:**  
**COUNCIL MEMBERS:**  
**COUNCIL MEMBERS:**  
**COUNCIL MEMBERS:**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**Steve Tate, Mayor**

**CERTIFICATION**

**I, Irma Torrez, City Clerk of the City of Morgan Hill, California,** do hereby certify that the foregoing is a true and correct copy of Resolution No. \_\_\_\_, adopted by the City Council at the meeting held on October 19, 2016.

**WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.**

**DATE:** \_\_\_\_\_

\_\_\_\_\_  
**Irma Torrez, CITY CLERK**