

RESOLUTION NO. _____ (CM)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WATSONVILLE AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT AND A SEPARATE EQUIPMENT SCHEDULE THERETO FOR THE ACQUISITION, FINANCING AND LEASING OF CERTAIN EQUIPMENT FOR THE PUBLIC BENEFIT WITHIN THE TERMS PROVIDED HEREIN; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION

WHEREAS, the City of Watsonville (the “Lessee”), a city duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of California, is authorized by the laws of the State of California to acquire, finance and lease personal property (tangible and intangible) for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, the governing body of the Lessee (the “Council”) has determined that a need exists for the acquisition, financing and leasing of certain equipment with a cost not to exceed \$4,000,000 and consisting of solid waste collection vehicles and a sewer system cleaning truck and the refinancing of certain solar panels installed on City property which constitutes personal property necessary for the Lessee to perform essential governmental functions (collectively, the “Equipment”) on the terms herein provided; and

WHEREAS, the Lessee issued a formal request for proposals and received bids from eleven financing entities for the proposed lease, of which Bank of America, National Association’s terms were determined to be the best and result in the greatest benefit to the Lessee;

WHEREAS, in order to acquire such Equipment, the Lessee proposes to enter into

that certain Master Equipment Lease/Purchase Agreement (the “Agreement”) with Bank of America, National Association (or one of its affiliates), as lessor (the “Lessor”), substantially in the proposed form presented to the Council at this meeting, and an Equipment Schedule thereto substantially in the form attached to the Agreement; and WHEREAS, the Council deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement and an Equipment Schedule thereunder and the other documentation relating to the acquisition, financing and leasing of the Equipment to be therein described on the terms and conditions therein and herein provided.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WATSONVILLE, CALIFORNIA, AS FOLLOWS:

Section 1. Findings and Determinations. It is hereby found and determined that the terms of the Agreement (including the form of Equipment Schedule and the form of Payment Schedule, both attached thereto), in the form presented to the Council at this meeting, are in the best interests of the Lessee for the acquisition financing and leasing of the Equipment.

Section 2. Approval of Documents. The form, terms and provisions of the Agreement (including the form of Equipment Schedule and Payment Schedule, both attached thereto) are hereby approved in substantially the forms presented at this meeting, with such insertions, omissions and changes as shall be approved by the Mayor, the City Manager or Administrative Services Director of the Lessee or other members of the governing body of the Lessee (the “Authorized Officials”) executing the same, the execution of such documents being conclusive evidence of such approval. The

Authorized Officials are each hereby authorized and directed to sign and deliver on behalf of the Lessee the Agreement, the Equipment Schedule under which a separate Lease (as defined in the Agreement) is created, the Payment Schedule attached thereto, the Escrow Agreement and any related exhibits attached thereto if and when required; *provided, however,* that, without further authorization from the governing body of the Lessee, (a) the aggregate principal component of Rental Payments under all Leases entered into pursuant to the Agreement shall not exceed \$4,000,000; (b) the maximum term under any Lease entered into pursuant to the Agreement shall not exceed seven (7) years; and (c) the maximum interest rate used to determine the interest component of Rental Payments under each Lease shall not exceed the lesser of the maximum rate permitted by law or 1.25% per annum. This maximum rate is slightly higher than the rate proposed by Bank of America and provides some flexibility in the event that the financing is not completed by the anticipated closing date. The Authorized Officials may sign and deliver Leases to the Lessor on behalf of the Lessee pursuant to the Agreement on such terms and conditions as they shall determine are in the best interests of the Lessee up to the maximum aggregate principal component, maximum term and maximum interest rate provided above.

Section 3. The Authorized Officials of the Lessee are authorized to engage NHA Advisors, LLC to provide municipal financial advisory services for this Lease. Compensation for municipal financial advisory services will be paid out of the proceeds of the Lease and is contingent upon a successful closing of the Lease. In addition, the Authorized Officials of the Lessee are authorized to engage additional professional

services as needed and release payment for all costs of said services and costs associated with the Lease.

Section 4. Other Actions Authorized. The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Agreement to carry out, give effect to and consummate the transactions contemplated thereby (including the execution and delivery of a Final Acceptance Certificate, the Escrow Agreement, Disbursement Requests and any tax certificate and agreement, as contemplated in the Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Lease.

Section 5. No General Liability. Nothing contained in this Resolution, the Agreement, the Lease, the Escrow Agreement nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement, the Lease, the Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under the Lease entered into pursuant to the Agreement are limited obligations of the Lessee, subject to annual appropriation, as provided in the Agreement.

Section 6. Appointment of Authorized Lessee Representatives. The Mayor, City Manager and Administrative Services Director of the Lessee are each hereby designated to act as authorized representatives of the Lessee for purposes of the Lease

and the Escrow Agreement until such time as the governing body of the Lessee shall designate any other or different authorized representative for purposes of the Lease or the Escrow Agreement.

Section 7. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 8. Repealer. All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency with respect to this Resolution.

Section 9. Effective Date. This resolution shall be effective immediately upon its approval and adoption.
