

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANK OF AMERICA, NATIONAL ASSOCIATION AND SEPARATE EQUIPMENT SCHEDULES FOR THE ACQUISITION, FINANCING AND LEASING OF CERTAIN ENERGY SERVICES EQUIPMENT IN AN AGGREGATE AMOUNT NOT TO EXCEED \$2,600,000.00; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT AND RELATED DOCUMENTS; AUTHORIZING ALL INCIDENTAL ACTIONS NECESSARY FOR THE CONSUMMATION OF THE CONTEMPLATED TRANSACTION.

WHEREAS, the City, a body corporate politic duly organized and existing under the laws of the state of Florida ("state"), is authorized by the laws of the state to acquire, purchase and lease personal property for the benefit of the City and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, the City has determined that a need exists for the acquisition, purchasing and leasing of certain energy services equipment, which constitutes personal property necessary for the City to perform essential governmental functions ("Equipment"); and

WHEREAS, in order to acquire the Equipment, the City desires to enter into a Master Equipment Lease/Purchase Agreement ("Lease-Purchase Agreement") with Bank of America, National Association (or one of its affiliates), as lessor ("Lessor"), the form of which has been presented to the City Commission at this meeting, and separate equipment schedules ("Equipment Schedules") substantially in the form attached to the Lease-Purchase Agreement; and

WHEREAS, the City Commission deems it for the benefit of the City and for its efficient and effective administration to enter into the Lease-Purchase Agreement and separate Equipment Schedules and the other documentation relating to the acquisition, purchase and leasing of the Equipment.

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA.

Section 1: FINDINGS AND DETERMINATIONS. It is found and determined that the terms of the Lease-Purchase Agreement (including the form of Equipment Schedule and the form of Payment Schedule, both attached thereto), in the form presented to the governing body of Lessee at this meeting, are in the best interest of the City for the acquisition, purchase and leasing of the Equipment.

Section 2: APPROVAL OF LEASE-PURCHASE AGREEMENT. The terms and provisions of the Lease-Purchase Agreement (including the form of the attached Equipment Schedule and the form of Payment Schedule) are approved in substantially the form attached as Exhibit A, with such changes, insertions, and additions as the City Attorney may approve. The City Commission authorizes the Mayor to execute and deliver, and the City Clerk (together with their designees, "Authorized Officials") to attest and affix the City's seal to the Lease-Purchase Agreement, if required, the execution of the Lease-Purchase Agreement being conclusive evidence of such approval. Notwithstanding the foregoing, without further authorization from the governing body of the City, (a) the aggregate principal component of Rental Payments under all Leases entered into pursuant to the Lease-Purchase Agreement shall not exceed \$2,600,000.00; (b) the maximum term under any Lease entered into pursuant to the Lease-Purchase Agreement shall not exceed 10 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 3.489% per annum. The Authorized Officials may sign and deliver Leases to the Lessor on behalf of the City pursuant to the Lease-Purchase Agreement on such terms and conditions as they shall determine are in the best interest of the City up to the maximum aggregate principal component, maximum term and maximum interest rate provided above.

Section 3: EXECUTION AND DELIVERY OF EQUIPMENT SCHEDULES. To the extent deemed necessary or desirable by the City Manager, the City may enter into one or multiple equipment schedules to the Lease-Purchase Agreement. The Authorized Officials are each authorized and directed to sign and deliver on behalf of the City each Equipment Schedule under which a separate Lease (as defined in the Master Lease-Purchase Agreement) is created.

Section 4: APPROVAL OF ESCROW AGREEMENT. The terms and provisions of the Escrow Agreement in substantially the form attached as Exhibit B are approved, with such changes, insertions and additions as the City Attorney may approve. The City Commission authorizes the Mayor to execute and deliver the Escrow Agreement, the execution of the Escrow Agreement being conclusive evidence of such approval.

Section 5: OTHER ACTIONS AUTHORIZED. The officers and employees of the City shall take all measures necessary or reasonably required by the parties to the Lease-Purchase Agreement to carry out, give effect to and consummate the contemplated transactions contemplated (including the execution and delivery of Final Acceptance Certificates, Escrow Agreements, disbursement requests and any tax certificate and

agreements contemplated in the Lease-Purchase Agreement) and 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-Purchase Agreement and each Lease.

Section 6: NO GENERAL LIABILITY. Nothing contained in this Resolution, the Lease-Purchase Agreement, any Lease, any Escrow Agreement nor any other instrument shall be construed with respect to the City as incurring a pecuniary liability or charge upon the general credit of the City or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Lease-Purchase Agreement, any Lease, any Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the City or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under each Lease entered into pursuant to the Lease-Purchase Agreement are limited obligations of the City, subject to annual appropriation, as provided in the Lease-Purchase Agreement.

Section 7: APPOINTMENT OF AUTHORIZED LESSEE REPRESENTATIVES. The Authorized Officials are each designated to act as authorized representatives of the City for purposes of each Lease and related Escrow Agreement.

Section 8: 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 9: REPEALER. All bylaws, orders and resolutions, or parts thereof inconsistent herewith, are repealed to the extent only of such inconsistency with respect to this Resolution. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

Section 10: EFFECTIVE DATE. This Resolution shall be effective immediately upon its approval and adoption.

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PASSED AND ADOPTED this _____ day of _____, 2023.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM:

DOUGLAS R. GONZALES
CITY ATTORNEY

The undersigned, a duly elected or appointed and acting _____ [City Clerk] of the City identified in the above Resolution No. _____ (the "*Resolution*"), hereby certifies that the Resolution is a full, true and correct copy of such Resolution as adopted by the governing body of the City on _____, 2023. The Resolution is in full force and effect on the date hereof and has not been amended, modified or otherwise changed by the governing body of the City since the date of adoption of the Resolution.

DATED this ____ day of _____, 2023.

Name: _____

Title: _____

Exhibit A
Form of Master Lease Purchase Agreement

Exhibit B
Form of Escrow Agreement