

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 BANC OF AMERICA PUBLIC CAPITAL CORP AND SEPARATE EQUIPMENT SCHEDULES FOR THE ACQUISITION, FINANCING AND LEASING OF CERTAIN ENERGY SERVICES EQUIPMENT IN AN AGGREGATE PRINCIPAL AMOUNT UP TO \$6,600,000.00; AUTHORIZING THE EXECUTION AND DELIVERY OF AN ESCROW AGREEMENT AND RELATED DOCUMENTS; AUTHORIZING ALL INCIDENTAL ACTIONS NECESSARY FOR THE CONSUMMATION OF THE TRANSACTION IN ACCORDANCE WITH SECTION 38.41 (C)(9) OF THE PROCUREMENT CODE. (BEST INTEREST)

WHEREAS, the City 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 (the "Equipment"); and

WHEREAS, in order to acquire the Equipment, the City desires to enter into a Master Equipment Lease-Purchase Agreement (the "Lease-Purchase Agreement") with Banc of America Public Capital Corp (or one of its affiliates), as lessor (the "Lessor"), and separate equipment schedules ("Equipment Schedules" and together with the Lease-Purchase Agreement, each a "Lease") substantially in the form attached to the Lease-Purchase Agreement; and

WHEREAS, the City Commission deems it for the benefit and best interest 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; and

WHEREAS, Section 38.41 (C)(9) of the Procurement Code states that when the City Commission declares by a five-sevenths (5/7ths) affirmative vote that competitive bidding and competitive proposals are not in the best interest of the City, such purchases are exempt from competitive bidding and competitive proposal requirements; and

WHEREAS, the rental payments due under each Lease shall be payable solely from a covenant to budget and appropriate from legally available non-ad valorem revenues of the City (the "Non-Ad Valorem Revenues").

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: FINDINGS AND DETERMINATIONS. The City Commission of the City hereby finds and determines that:

(a) it is in the best interests of the City to obtain financing for the Equipment in the form and on the terms of the Lease-Purchase Agreement (including the form of Equipment Schedule and the form of Payment Schedule, both attached thereto) presented to the City Commission of the City at this meeting; and

(b) it is in the best interests of the City to accept the terms and conditions set forth in a letter from Lessor to the City, dated May 1, 2025 and the attachment thereto entitled "Summary of Terms and Conditions" and to enter into the Lease-Purchase Agreement with the Lessor, including, without limitation, the Equipment Schedules and the other related documentation described in the Lease-Purchase Agreement; and

(c) a negotiated award of the Lease-Purchase Agreement is in the City's best interests because of (i) the volatile financial market conditions, (ii) the necessity of being able to adjust the terms of the financing to respond to changes in market conditions and (iii) the need to maintain maximum flexibility while moving as expeditiously as possible to consummate the financing; and

(d) the obligation of the City to make Rental Payments and any other payments required under the Lease-Purchase Agreement shall be a limited, special obligation of the City and shall not be or constitute a general obligation or indebtedness of the City, and the Rental Payments and any other payment obligations under the Lease-Purchase Agreement shall not be or constitute a "bond" within the meaning of Article VII, Section 12, Florida Constitution. Neither the Lessor nor any successor shall be entitled to compel the payment of the Rental Payments or the making of any other payments required under the Lease-Purchase Agreement from any moneys of the City other than the Non-Ad Valorem Revenues budgeted and appropriated as set forth in Section 3.02 of the Lease-Purchase Agreement, it being expressly understood that such covenant to budget and appropriate does not create a lien upon or a pledge of the Non-Ad Valorem Revenues.

Section 3: 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 \$6,600,000; (b) the maximum term under any Lease entered into pursuant to the Lease-Purchase Agreement shall not exceed 21 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 5.0%. 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 4: 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 Lease-Purchase Agreement) is created.

Section 5: RENTAL PAYMENTS; LIMITED OBLIGATION. The City promises that it will promptly pay the rental payments due under each Lease and all other amounts due under the Lease-Purchase Agreement at the place, on the dates and in the manner provided in each Lease according to the true intent and meaning hereof and thereof. Amounts due under each Lease shall not be or constitute a general obligation or indebtedness of the City as a "bond" within the meaning of the Constitution and the laws of the State of Florida, but shall be payable solely from the Non-Ad Valorem Revenues in accordance with the terms hereof and of each Lease. The Lender hereunder shall never have the right to compel the exercise of any ad valorem taxing power to pay rental payments or be entitled to payment from any funds of the City except from the Non-Ad Valorem Revenues as described herein and in the Lease-Purchase Agreement.

Section 6: 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 7: 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 8: 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 9: APPOINTMENT OF AUTHORIZED CITY 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 10: 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 11: 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 12: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

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PASSED AND ADOPTED this _____ day of _____, 2025.

JOSH LEVY, MAYOR

ATTEST:

PATRICIA A. CERNY, MMC
CITY CLERK

APPROVED AS TO FORM:

DAMARIS Y. HENLON
INTERIM CITY ATTORNEY