

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA
APPROVING AN ENERGY SERVICE CONTRACT WITH JOHNSON
CONTROLS, INC.

WHEREAS, Government Code section 4217.12 authorizes cities to enter into energy service contracts with any person or entity, pursuant to which that person or entity will provide energy or conservation services to the city, if the anticipated cost to the city for conservation services provided under the contract is less than the anticipated marginal cost to the city of energy that would have been consumed by the city in the absence of the energy service contract; and

WHEREAS, Government Code section 4217.16 provides that a public entity entering into an energy service contract may do so by requesting proposals from qualified persons and awarding the contract based on the experience of the contractor, the type of technology employed by the contractor, the cost to the local agency, and any other relevant considerations; and

WHEREAS, the City of Chula Vista (“City”) utilized an informal competitive Request for Qualifications (“RFQ”) process consistent with Section 4217.16 to solicit proposals to implement a comprehensive alternative energy program for the City through the installation of solar equipment and related improvements to provide alternative energy to the City and to guarantee certain energy cost savings to the City; and

WHEREAS, City staff reviewed the qualifications of the companies submitting responses to the RFQ and selected Johnson Controls, Inc. (“Johnson”) as the entity best suited to implement a comprehensive alternative energy program for the City; and

WHEREAS, the Purchasing Agent approved the purchasing process by which Johnson was selected as being consistent with good purchasing practices and has determined that the City’s interests were materially better served by using such process, and, accordingly, the City Council waives the City’s competitive bidding requirements, pursuant to Chula Vista Municipal Code section 2.56.070.B.3; and

WHEREAS, Johnson conducted an assessment of City sites and facilities for the location of solar energy equipment and analyzed the potential energy cost savings to be realized by the City from the installation of such equipment; and

WHEREAS, to determine the potential energy cost savings Johnson requested and was provided with electrical usage data from the City and San Diego Gas and Electric Company; and

WHEREAS, Johnson has presented to the City for approval a Performance Contract (the “Energy Service Contract”) pursuant to which it will supply the solar energy equipment described therein to the City and certain energy services described therein and will provide a performance guarantee to reduce energy costs to the City; and

WHEREAS, Johnson has advised the City of its conclusion that the cost of the purchase of the solar energy equipment and related improvements pursuant to the Energy Service Contract will be less than the anticipated marginal cost to the City of the electrical energy that would have been

consumed in the absence of the purchase pursuant to the Energy Service Contract as set forth in Schedule 2 of the Energy Service Contract; and

WHEREAS, based on the information in Schedule 2 of the Energy Service Contract the City and analysis performed by City Staff, the City has determined that the cost of the Energy Service Contract to the City for the energy conservation services provided thereunder is less than the anticipated marginal cost to the City of the energy that would have been consumed by the City in the absence of the Energy Service Contract; and

WHEREAS, on September 11, 2017, the City published a notice of its intent to consider entering into the Energy Service Contract and in accordance with Government Code sections 4217.12 the City Council held a public hearing on September 26, 2017, to receive public comments on the Energy Service Contract; and

WHEREAS, the installation of the improvements described in the Energy Service Contract is a project which is categorically exempt from review under the California Environmental Quality Act under Class 3 exemptions.

NOW, THEREFORE, the City Council of the City of Chula Vista does hereby resolve as follows:

SECTION 1. Recitals. The foregoing recitals are true and correct and the City Council so finds and determines.

SECTION 2. Energy Service Contract Findings. In accordance with Section 4217.12 of the California Government Code, the City Council finds that the anticipated cost to the City for the electrical energy conservation services provided by the conservation measures under the Energy Service Contract will be less than the anticipated marginal cost to the City of electrical energy that would have been consumed by the City in the absence of those purchases and the funds for the repayment of financing the cost of design, construction and operation of the energy conservation facilities are projected to be available from revenues resulting from funding that otherwise would have been used for the purchase of electrical energy required by the City of Chula Vista in the absence of the energy conservation facilities.

SECTION 3. Waiver of Competitive Bidding Requirements. In accordance with Chula Vista Municipal Code section 2.56.070.B.3, the Purchasing Agent has determined that the City's interests were materially better served by utilizing the selection process used, rather than the City's competitive bidding process. The City Council accepts this determination and, accordingly, waives the City's competitive bidding requirements applicable to the Energy Service Contract.

SECTION 4. Approval of Energy Service Contract. The form of the Energy Service Contract presented to the City Council at this meeting, is hereby approved in the form presented, with such minor changes as may be authorized or approved by the City Attorney, a copy of which shall be kept on file with the City Clerk, and authorizes and directs the Mayor to execute same.

SECTION 5. General Authorization. The City Council hereby authorizes and directs the City Manager and designees, and each of them individually, for and in the name of and on behalf

of the City, to do any and all things and to execute and deliver any and all documents that they may deem necessary or advisable in order to complete the execution and delivery of the Energy Service Contract and otherwise to carry out, give effect to, and comply with the terms and intent of this resolution. All actions heretofore taken by such officers and agents that are in conformity with the purposes and intent of this resolution are hereby ratified, confirmed and approved in all respects. In addition, the Director of Finance/Treasure is authorized to approve any Change Order to the Energy Service Contract in an amount below \$25,000. Any Change Order, resulting in an amount over \$25,000, shall be valid only on the approval of the City Council.

SECTION 5. Effective Date. This resolution shall take effect immediately upon its passage.

PASSED AND ADOPTED this 26th day of September, 2017, by the following vote:

AYES:

NOES:

ABSTENTIONS:

ABSENT:

Mayor
City of Chula Vista

I hereby certify that the foregoing resolution was duly introduced, passed and adopted at the time and place and by the vote as noted above.

City Clerk of the City Council
City of Chula Vista

PASSED AND ADOPTED by the City Council of the City of Chula Vista at a regular meeting held on the 26th day of September, 2017.

Mayor

REVIEWED AND APPROVED:

APPROVED AS TO FORM:

City Manager

City Attorney

INITIATED AND APPROVED:

Assistant City Manager