

**RESOLUTION NO. 2020-   B**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT AND EQUIPMENT SCHEDULE NO. 01 THERETO WITH BANC OF AMERICA PUBLIC CAPITAL CORP. FOR THE ACQUISITION, FINANCING, AND LEASING OF CERTAIN FIRE SERVICE EQUIPMENT FOR THE PUBLIC BENEFIT WITHIN THE TERMS HEREIN PROVIDED; 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 ALL IN FINAL FORMS APPROVED BY THE CITY ATTORNEY**

**WHEREAS**, the City of Chula Vista (the “*Lessee*”), a municipal corporation and charter city duly organized and existing under a charter pursuant to which the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs and certain other matters in accordance with and as more particularly provided in Section 3, 5 and 7 of Article XI of the Constitution of the State of California, is authorized by the laws of the State of California and its Charter 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;

**WHEREAS**, the City Council of the Lessee (the “*City Council*”) has determined that a need exists for the acquisition, financing and leasing of certain equipment consisting of fire suppression vehicles, which constitutes personal property necessary for the Lessee to perform essential governmental functions (collectively, the “*Equipment*”) on the terms herein provided;

**WHEREAS**, in order to acquire such Equipment, the Lessee proposes to enter into that certain Master Equipment Lease/Purchase Agreement (the “*Agreement*”) with Banc of America Public Capital Corp (or one of its affiliates), as lessor (the “*Lessor*”), substantially in the proposed form presented to the City Council at this meeting, and separate Equipment Schedules thereto substantially in the form attached to the Agreement; and

**WHEREAS**, the City Council deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement and separate Equipment Schedules thereunder and the other documentation relating thereto from time to time as provided in the Agreement for 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 AND IT IS HEREBY RESOLVED** by the City Council of the Lessee as follows:

**Section 1. Findings and Determinations.** It is hereby found and determined that the terms of the Agreement (including the Equipment Schedule No. 01 and the Payment Schedule to Equipment Schedule No. 01, both attached thereto), in the form presented to the City 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 the form of 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 City Manager of the Lessee or the City Attorney of the Lessee (the "*Authorized Officials*") executing the same, the execution of such documents being conclusive evidence of such approval; and the City Manager of the Lessee is hereby authorized and directed to execute, and the City Attorney of the Lessee is hereby authorized and directed to attest, the Agreement and any related Exhibits attached thereto and to deliver the Agreement (including such Exhibits) to the respective parties thereto. The Authorized Officials are each hereby authorized and directed to sign and deliver on behalf of the Lessee the Agreement, each Equipment Schedule thereto under which a separate Lease (as defined in the Agreement) is created, each Payment Schedule attached thereto, any related Escrow Agreement and any related exhibits attached thereto if and when required; *provided, however*, that, without further authorization from the City Council of the Lessee, (a) the aggregate principal component of Rental Payments under all Leases entered into pursuant to the Agreement shall not exceed \$10,000,000, with a \$2,400,000 not to exceed amount for Equipment Schedule No. 1; (b) the maximum term under any Lease entered into pursuant to the Agreement shall not exceed six 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 2.0 % per annum. 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. The foregoing authorization shall remain in effect for a period of one year from the date hereof during which the Authorized Officials are authorized to sign and deliver Leases pursuant to the Agreement on the terms and conditions herein provided and to be provided in each such Lease.

**Section 3. 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 Final Acceptance Certificates, Escrow Agreements, 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 Agreement and each Lease.

**Section 4. No General Liability.** Nothing contained in this Resolution, the Agreement, any Lease, any 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, any Lease, any 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 each Lease entered into pursuant to the Agreement are limited obligations of the Lessee, subject to annual appropriation, as provided in the Agreement.

**Section 5.** *Appointment of Authorized Lessee Representatives.* The City Manager and Director of Finance of the Lessee are each hereby designated to act as authorized representatives of the Lessee for purposes of each Lease and related Escrow Agreement until such time as the City Council of the Lessee shall designate any other or different authorized representative for purposes of the Agreement and any Lease or Escrow Agreement.

**Section 6.** *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 7.** *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. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

**Section 8.** *Effective Date.* This Resolution shall be effective immediately upon its approval and adoption.

Presented by:

Approved as to form:

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David Bilby,

Director of Finance

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Glen R. Googins,

City Attorney