

RESOLUTION NO. 2018-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE, CALIFORNIA, APPROVING AND RATIFYING ALL PRIOR APPROVALS, EXECUTIONS AND DELIVERIES OF: (1) AMENDED AND RESTATED WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS PROFESSIONAL SERVICES AGREEMENT DATED MARCH 27, 2018, (PSA), BY AND BETWEEN THE WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS (WRCOG) AND SIEMENS INDUSTRY INC., INTELLIGENT TRAFFIC SYSTEMS (CONSULTANT); (2) APPENDIX No. 4 TO THE PSA (PSA APPENDIX No. 4) BY AND BETWEEN THE CITY OF LAKE ELSINORE (CITY), WRCOG AND CONSULTANT; (3) WESTERN RIVERSIDE COUNCIL OF GOVERNMENTS EQUIPMENT PURCHASE AGREEMENT (EPA) DATED JUNE 28, 2018, BY AND BETWEEN WRCOG AND CALIFORNIA ELECTRIC SUPPLY (CONTRACTOR); AND (4) APPENDIX No. 4 TO THE EPA (EPA APPENDIX No. 4) BY AND BETWEEN CITY, WRCOG AND CONTRACTOR

Whereas, the City is a municipal corporation duly organized and existing under and pursuant to the Constitution and laws of the State of California; and,

Whereas, the City has previously determined, pursuant to Resolution No. 2018-099 approved on July 24, 2018, to finance certain improvements (Improvements) consisting of the acquisition of certain street lights and the installation of certain energy savings equipment thereto as described in that certain Purchase and Sale Agreement dated May 30, 2017, (Purchase Agreement) by and between the City and Southern California Edison, a California corporation; and,

Whereas, the City has previously determined, pursuant to Resolution No. 2018-099, to provide for financing in the approximate amount of \$3,500,000.00 for the acquisition and installation of the Improvements; and,

Whereas, Banc of America Leasing & Capital LLC (Banc of America) has proposed a cost-effective lease purchase financing arrangement for the acquisition and installation of the Improvements, as set forth under that certain Equipment Lease/Purchase Agreement (Agreement), dated November 1, 2018, by between Banc of America and the City, the form of which was presented and approved by the City Council (Council) pursuant to Resolution No. 2018-099, and is on file with the City Clerk; and,

Whereas, following approval of the Purchase Agreement and as further authorized pursuant to Resolution No. 2018-099 related to the financing of the Improvements, the City filed a Notice of Exemption pursuant to the California Environmental Quality Act (Public Resources Code §§ 21000, et seq.; "CEQA") with the Riverside County Clerk on October 30, 2018, wherein the "Project" included the City's acquisition and financing of the Improvements; and,

Whereas, in connection with the execution and delivery of the Agreement, it is necessary for the City to enter into PSA Appendix No. 4 by and among the City, WRCOG and Consultant, which appendix incorporates by reference that certain PSA by and between WRCOG and Consultant, both of which are attached hereto as Exhibit A and incorporated herein; and,

Whereas, in connection with the execution and delivery of the Agreement, it is necessary for the City to enter into EPA Appendix No. 4 by and between the City, WRCOG and Contractor, which appendix incorporates by reference that certain Equipment Purchase Agreement by and between WRCOG and Contractor, both of which are attached hereto as Exhibit B and incorporated herein; and,

Whereas, the City has previously determined pursuant to its adoption of Resolution No. 2018-099 that the lease financing arrangement is the most economical means for providing the Improvements to the City; and,

Whereas, WRCOG engaged in a competitive selection process with respect to selecting the Consultant and the Contractor under which WRCOG's member agencies, including the City, participated in such competitive selection process; and,

Whereas, the City desires to approve, and ratify all prior approvals, executions and deliveries of PSA Appendix No. 4, including the incorporation by reference therein of the PSA by and between WRCOG and Consultant, and EPA Appendix No. 4, including the incorporation by reference therein of the EPA by and between WRCOG and Contractor. The foregoing appendices along with the agreements incorporated by reference therein are hereinafter referred to collectively as the "WRCOG Agreements."

NOW, THEREFORE, IT IS HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAKE ELSINORE AS FOLLOWS:

Section 1. CEQA. The Council finds and determines that no new CEQA documentation is necessary. The approvals, ratifications and approvals of the WRCOG Agreements as provided in this Resolution constitutes implementation of the action previously approved in Resolution No. 2018-099, following which a Notice of Exemption was authorized and filed on October 30, 2018. Therefore, no further environmental review is necessary.

Section 2. Authorization and Approval of WRCOG Agreements. The Council hereby approves and ratifies all prior approvals, executions and deliveries of the WRCOG Agreements together with any changes therein or additions thereto which are deemed advisable by the City Manager. The City Manager has been and is authorized and directed to take all steps and actions which are necessary to accomplish execution of the WRCOG Agreements pursuant to the authorization given by and the conditions specified in this Resolution and Resolution No. 2018-099. The City Manager, or his designee, has been and is authorized to execute PSA Appendix No. 4 and EPA Appendix No. 4 for and on behalf of the City.

Section 3. Attestations. The City Clerk or other appropriate City officer is hereby authorized and directed to attest the signature of the City Manager or of such other person or persons as may have been designated by the City Manager, and to affix and attest the seal of the City, as may be required or appropriate in connection with the execution and delivery of the WRCOG Agreements.

Section 4. Other Actions. The City Manager and his designees are each hereby authorized and directed, jointly and severally, to take any and all actions and to execute and deliver any and all agreements, documents and certificates which they may deem necessary or advisable in order to carry out, give effect to and comply with the terms of this Resolution and the WRCOG Agreements. Such actions are hereby ratified, confirmed and approved.

Section 5. General Liability. Nothing contained in this Resolution, the WRCOG Agreements nor any other instrument shall be construed with respect to the City, as Lessee, as incurring a pecuniary liability or charge upon the general credit of the City, as Lessee, or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the WRCOG Agreements or any other instrument or document executed in connection therewith impose any pecuniary liability upon the City, as Lessee, or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under the Agreement are limited obligations of the City, as Lessee, subject to annual appropriation by its governing body, as provided in the Agreement.

Section 6. Purchase Procedures. Pursuant to Lake Elsinore Municipal Code Section 3.08.070, the purchasing procedures set forth in Chapter 3.08 for the purchases of supplies, services and equipment do not apply to the WRCOG Agreements.

Section 7. Appointment of Authorized Lessee Representatives. The City Manager and her or his designee (Authorized Representatives) are each hereby designated to act as authorized representatives of the City, as Lessee, for purposes of the WRCOG Agreements and the Escrow Agreement until such time as the governing body of the City, as Lessee shall designate any other or different authorized representative for purposes of the WRCOG Agreements.

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 hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, Resolution or Ordinance or part thereof.

Section 10. Location and Custodian of Records. The documents and materials associated with the action that constitute the record of proceedings on which these findings are based are located at the City of Lake Elsinore, City Clerk's Department, Lake Elsinore, California.

Section 11. Effect. This Resolution shall take effect immediately upon its passage.

Section 12. The City Clerk shall certify to the adoption of this Resolution and enter it into the book of original Resolutions.

Passed and Adopted on this ____ day of _____ 2018.

Natasha Johnson
Mayor

Attest:

Susan M. Domen, MMC
City Clerk

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF LAKE ELSINORE)

I, Susan M. Domen, MMC, City Clerk of the City of Lake Elsinore, California, do hereby certify that Resolution No. _____ was adopted by the City Council of the City of Lake Elsinore, California, at the Regular meeting of _____, 2018, and that the same was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Susan M. Domen, MMC
City Clerk

EXHIBIT A

PSA APPENDIX #4/PROFESSIONAL SERVICES AGREEMENT

[To be attached]

EXHIBIT B

EPA APPENDIX #4/EQUIPMENT PURCHASE AGREEMENT

[To be attached]