

RESOLUTION NO. 10-69

RESOLUTION APPROVING CERTAIN ENERGY CONSERVATION MEASURES, AUTHORIZING THE EXECUTION OF AGREEMENTS, SIGNATORIES AND MAKING OTHER DETERMINATIONS IN CONNECTION THEREWITH RELATED TO EQUIPMENT LEASE FINANCING OF THE JOHNSON CONTROLS MECHANICAL RETROFIT AND ENERGY MANAGEMENT PROJECT

WHEREAS, the City Council of the City of Lancaster (the "City") is authorized pursuant to Sections 4217.10 through 4217.18 of the California Government Code (the "Act") to enter into energy conservation contracts pursuant to which the City may acquire and finance equipment and services to reduce energy use or to make for a more efficient use of energy; and

WHEREAS, pursuant to the Act, the City proposes to enter into an agreement with Johnson Controls, Inc. (the "JCI Contract") for the acquisition and installation of a mechanical retrofit and energy management project (the "Project") for a financed amount of \$1,600,000.00; and

WHEREAS, Municipal Finance Corporation (the "Corporation") has offered to enter into a Lease With Option to Purchase (the "Lease") with the City in order to provide fifteen year lease financing for the Project at a 4.35% annual percentage rate;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LANCASTER AS FOLLOWS:

Section 1. The City Council hereby finds, determines and declares as follows:

(a) The anticipated cost to the City for "Conservation Services" as defined in Section 4217.11(c) of the Act and as provided for by the JCI Contract, the Lease and the Project will be less than the anticipated marginal cost to the City of energy that would have been consumed by the City in the absence of the Project.

(b) To the extent that the JCI Contract and/or the Lease grant easements, rights-of-way, licenses, rights of access, or other rights in the real property of the City upon which the Project will be constructed and installed, the difference, if any, between the fair rental value of such rights and the portion of the rent under the Lease attributable to such rights, is anticipated to be offset by benefits provided to the City under the JCI Contract and the Lease.

(c) Funds for the payment of amounts due under the Lease are projected to be available from funding which otherwise would have been used for the purchase of energy required by the City in the absence of the Project.

Section 2. Lease with Option to Purchase and Project Fund Agreement. The Mayor, City Manager, Finance Director or a designee in writing is hereby authorized to enter into a Lease with Option to Purchase (the "Lease") and a Project Fund Agreement with the Corporation to finance the Project, subject to approval as to form by the City Attorney.

Section 3. Attestations. The City Clerk or other appropriate City officer is hereby authorized and directed to attest the signature of the Mayor, City Manager or Finance Director or of such other person or persons as may have been designated by the Mayor, City Manager or Finance Director, 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 Lease.

Section 4. Other Actions. The Mayor, City Manager, Finance Director and other officers of the City 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 Lease. Such actions are hereby ratified, confirmed and approved.

Section 5. Qualified Tax-Exempt Obligations. The Lease is hereby designated as "qualified tax-exempt obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The City, together with all subordinate entities of the City, do not reasonably expect to issue during the calendar year in which the Lease is issued more than \$30,000,000 of obligations which it could designate as "qualified tax-exempt obligations" under Section 265(b) of the Code.

Section 6. Reimbursement of Prior Expenditures. The City declares its official intent to be reimbursed from the proceeds of the Lease approved hereby for a maximum principal amount of \$1,600,000.00 of expenditures occurring no earlier than sixty days prior to the adoption of this Resolution. All reimbursed expenditures will be capital expenditures as defined in Section 1.150-1(b) of the Federal Income Tax Regulations.

Section 7. Effect. This Resolution shall take effect immediately upon its passage.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2010 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

GERI K. BRYAN, CMC
City Clerk
City of Lancaster

R. REX PARRIS
Mayor
City of Lancaster

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss
CITY OF LANCASTER)

CERTIFICATION OF RESOLUTION
CITY COUNCIL

I, _____, _____ City of Lancaster, California, do hereby certify that this is a true and correct copy of the original Resolution No. 10-69, for which the original is on file in my office.

WITNESS MY HAND AND THE SEAL OF THE CITY OF LANCASTER, on this _____ day of _____, _____.

(seal)
