



STAFF REPORT
10/25/2023

TO: Honorable Mayor and City Council Members

FROM: Dr. Gabriel Martin, City Manager
Zachary Scalzo, City Attorney

SUBJECT: Adopt Resolution No. 2023-72 Authorizing the City Manager the Execution and Delivery of an Equipment/Purchase Agreement with Respect to the Acquisition, Financing and Purchase of Certain Equipment for the Public Benefit within the Terms Provided Herein; Authorizing the Execution and Delivery of Documents Required in Connection Therewith; and Authorizing the Taking of all Other Actions Necessary to the Consummation of the Transactions Contemplated by this Resolution

STAFF RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 2023-72 authorizing the City Manager the execution and delivery of an Equipment/Purchase Agreement with respect to the acquisition, financing and purchase of certain equipment for the public benefit within the terms provided herein; authorizing the execution and delivery of documents required in connection therewith; and authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution.

BACKGROUND:

On July 26, 2023, the City Council (“Council”) of the City of Coachella (“City”) adopted Resolution No. 2023-53, approving that certain Contract For Design and Construction of Energy Conservation Measures – Lump Sum (Gov. Code, § 4217, *et seq.*) (Multi-Site Energy Improvement Project) (The “DB Contract”) with Alliance Building Solutions, Inc. (“Alliance”). The DB Contract requires Alliance to design and construct several different types of energy conservation measures within the City (collectively, “Project”), including, the following scope of work that the City agreed to construct on behalf of the Coachella Sanitary District (“District”) at the Treatment Plant: (i) solar photovoltaic panels; and (ii) process improvements (“District Scope”). Additionally, Resolution No. 2023-53 conditioned the City Council’s approval upon the City obtaining financing for the Project and authorized the City Manager to obtain such financing and to negotiate a financing agreement. The City issued a request for proposals from banks in order to obtain the lowest cost of financing the equipment for the project (the “Equipment”) and the most

favorable terms. Banc of America Public Capital Corp (the “Lender” or “Bank”) was selected as the lender.

DISCUSSION/ANALYSIS:

The City Council has before it a resolution (the “Resolution”) approving the terms of an equipment lease financing in order to finance the Equipment through financing with the Lender. The Resolution approves, among other actions, the terms of an Equipment Lease/Purchase Agreement (the “ELPA”) between the Lender and the City, whereby the City will lease with the option to purchase the Equipment from the Bank. Pursuant to the Resolution, the ELPA is approved with a maximum principal amount to be financed not to exceed \$15,600,000, and an interest rate not to exceed 4.35%.

The Bank has agreed to lock in the rate of 4.344% for the financing through October 31, 2023. In order to finance what is described as the “process optimization” portion of the District Scope, Alliance will need to provide the City with a description of equipment, values, and energy, O&M and new renewable savings for that portion of the project. The City has asked Alliance for such information on several occasions, but Alliance has not been able to provide that information to the City. If Alliance cannot provide the necessary information regarding the design of the process optimization portion of the District Scope, then the City may move forward with financing the remainder of the project, and finance the process optimization portion at a later date once Alliance has completed design. Currently, staff’s estimate of the process optimization portion of the District Scope is between \$8 million and \$8.5 million.

As required by Government Code Section 5852.1, City staff has obtained certain good faith estimates of the financing terms assuming financing of the entire project, which are attached to the Resolution as Exhibit A.

The Resolution also approves the terms of the Lease Agreement. Since the City and District are separate legal entities, the District must agree to permit the City to design and construct the District Scope at the Treatment Plant and agree to reimburse the City for the cost of the District Scope, plus interest. Although the Sanitary District is obligated to pay lease payments to the City for the lease of its portion of the Equipment, regardless of the receipt of such lease payments the City is obligated to make lease payments to the Lender pursuant to the ELPA.

ALTERNATIVES:

1. The City Council may decide not to finance the project.
2. Continue the item and provide staff with direction.
3. Take no action

FISCAL IMPACT:

The ELPA has a 20-year term (final lease payment in 2043) with an interest rate of 4.344%, and lease payments (assuming financing of the entire project and including all financing costs) total approximately \$24 million. Additionally, if the City elects to enter into the Measurement and Verification Agreement with Alliance for the term of the financing, the City will pay a total of \$627,438 to Alliance for measurement and verification services of energy savings (a portion of which may be allocated to the Sanitary District). Although the Sanitary District is obligated to make lease payments to the City for its pro-rata share of the project costs, should the Sanitary District fail to make lease payments to the City, the City remains obligated under the ELPA to make payments to the Bank. Further, Alliance has projected certain energy savings, O&M savings, new renewable savings, and Direct Pay Investment Tax Credit (“ITC”) for the Project. There is no guarantee that these savings will be realized in the timing and amounts as projected by Alliance, and regardless of whether any such savings come to fruition, the City remains obligated to make payments to the Bank in the amounts and on the dates described in the ELPA. Should the City fail to make these payments to the Bank, the Bank has the right to retake possession of the Equipment.

Finally, if Alliance is not able to provide the City with the required information to close the financing by October 31, 2023, the Bank is not obligated to offer the 4.344% interest rate that was locked through that date. Interest rates have risen significantly since the Bank provided this rate; and the current estimated interest rate is 4.82%.

ATTACHMENT(S):

1. City Resolution No. 2023-72
2. ELPA and Escrow Agreement
3. Lease Agreement with Sanitary District