

RESOLUTION NO. 2009-725

Adopted by the Sacramento City Council

November 17, 2009

RATIFYING THE 2004 MASTER EQUIPMENT LEASE / PURCHASE AGREEMENT WITH BANC OF AMERICA CAPITAL LEASING & FINANCING

BACKGROUND

- A. Item 3.25 on the agenda for the City Council's regular meeting on the afternoon of March 16, 2004, requested that the City Council authorize the City Treasurer to execute, on the City's behalf, a Master Equipment Lease / Purchase Agreement with Banc of America Leasing & Capital, LLC (the "Master Agreement"). The full text of Item 3.25 read as follows: "Master Equipment Lease/Purchase Agreement between the City of Sacramento and B] of A Leasing and Capital Corporation [sic] ("B of A Leasing") for the purpose of financing \$1.51 million IBM Enterprise server upgrade."
- B. In the report that staff submitted to the City Council for Item 3.25, staff recommended "that the City Council adopt the attached Resolution approving the City Treasurer's actions to secure financing and to execute the Master Equipment Lease/Purchase Agreement between the City of Sacramento and [Banc of America Leasing & Capital, LLC]"
- C. By approving Item 3.25, the City Council intended to authorize the City Treasurer to execute the Master Agreement on the City's behalf, and believed that it had done so. Consistent with this intent and belief, the approved minutes for the meeting stated, consistent with staff's recommendation, that the City Council "[a]dopted Resolution 2004-187 approving Agreement 2004-047 [i.e., the Master Agreement]." Likewise, the Master Agreement itself recites that the City Council "authorized the execution and delivery of [the Master Agreement] pursuant to Resolution No. 2004-187 approved on March 16, 2004."
- D. Following the meeting of March 16, 2004, the City Treasurer executed the Master Agreement. Since then, the City has successfully used the Master Agreement to finance the acquisition of equipment—such as computers, pay & display parking meters, solid-waste-refuse vehicles, and firefighting apparatus—that the City needs perform essential governmental and proprietary functions.
- E. While working recently on an amendment to the Master Agreement (an amendment the City Council authorized on July 14, 2009, by adopting Resolution No. 2009-465), staff discovered that Resolution No. 2004-187 did not explicitly authorize the City Treasurer to execute the Master Agreement. Rather, it only stated, for purposes of complying with Treasury Regulation 1.150-2, that the City

intended to reimburse itself from the proceeds of indebtedness for certain expenditures.

- F. Because Resolution No. 2004-187 does not clearly reflect the City Council's intent in approving Item 3.25, and to clear up any unintentional ambiguities about the City Council's intent, the City Council desires to ratify the Master Agreement.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:

Section 1. The City Council hereby ratifies the Master Equipment Lease / Purchase Agreement that is dated March 16, 2004, and is between the City of Sacramento and Banc of America Leasing & Capital, LLC (City Agreement No. 2004-047).

Section 2. In accordance with California law, the City Council intends that this ratification relate back to March 16, 2004.

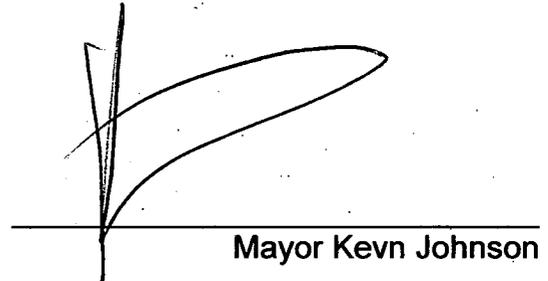
Adopted by the City of Sacramento City Council on November 17, 2009 by the following vote:

Ayes: Councilmembers Cohn, Fong, Hammond, McCarty, Pannell, Sheedy, Tretheway, Waters, and Mayor Johnson

Noes: None.

Abstain: None.

Absent: None.



Mayor Kevn Johnson

Attest:



Shirley Concolino, City Clerk