

RESOLUTION NO. 4267

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLEDAD
AUTHORIZING THE CITY MANAGER TO ENTER INTO AN ACQUISITION FUND
AND ACCOUNT CONTROL AGREEMENT AND A MASTER EQUIPMENT
LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL
CORPORATION FOR THE PURCHASE AND INSTALLATION OF THE EQUIPMENT
IN THE ENERGY RETROFIT PROJECT BY AIRCON ENERGY INC. FOR AN
AMOUNT NOT TO EXCEED \$1,248,134**

WHEREAS, the City of Soledad ("*City*"), a municipal corporation, is authorized by the laws of the State to purchase, acquire and lease certain equipment and other property, for the benefit of the City and its inhabitants, and to enter into contracts with respect thereto; and

WHEREAS, the City Council of the City (the "*Council*") is authorized to purchase of certain equipment for the implementation of energy conservation measures (the "*Equipment*"); and

WHEREAS, in order to acquire the Equipment, the City proposes to enter into a Master Equipment Lease/Purchase Agreement (the "*Agreement*") with Banc of America Public Capital Corp, as lessor (the "*Lessor*"), substantially in the form of the document attached hereto as Exhibit "A"; and

WHEREAS, to provide for the safekeeping and investment of monies received by the City in connection with the execution of the Agreement, pending disbursement for acquisition of the Equipment and to provide for procedures in disbursing such monies for such acquisition, the City proposes to enter into an Acquisition Fund and Account Control Agreement (the "*Account Agreement*") with Lessor and Deutsche Bank National Trust Company, as Acquisition Fund Custodian (the "*Custodian*"), substantially in the form of the document attached hereto as Exhibit "B"; and

WHEREAS, City has taken the necessary steps, including but not limited to any applicable legal bidding requirements, to arrange for the acquisition and financing of the Equipment.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Soledad as follows:

Section 1. The form, terms and provisions of the Agreement and the Account Agreement are hereby approved substantially in the forms attached hereto as Exhibits A and B, with such insertions, omissions and changes as shall be approved by the City Manager of the City in consultation with the City Attorney.

Section 2. The City Manager, or his designee is hereby authorized and directed to execute the Agreement, the Account Agreement and such other documents as are deemed necessary to carry out the intent of the Agreement and the Account Agreement and the intention of this Resolution.

Section 3. This Resolution shall be effective immediately upon its approval and adoption.

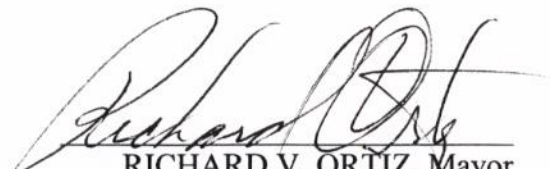
PASSED AND ADOPTED by the City Council of the City of Soledad at a regular meeting duly held on the 6th of August, 2008 by the following vote:

AYES, and in favor thereof, Councilmembers: Juan Saavedra, Patricia Stephens, Mayor Pro Tem Christopher Bourke, Mayor Richard Ortiz

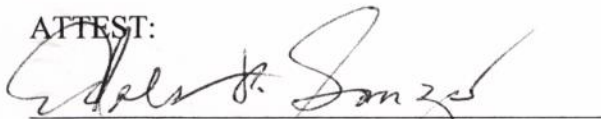
NOES, Councilmembers: None

ABSENT, Councilmembers: Martha Camacho

ABSTAIN, Councilmembers: None


RICHARD V. ORTIZ, Mayor

ATTEST:


ADELA GONZALEZ, City Clerk

MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT

This Master Equipment Lease/Purchase Agreement (the "*Agreement*") dated as of August 13, 2008, and entered into between **Banc of America Public Capital Corp**, a Kansas corporation ("*Lessor*"), and **City of Soledad, California**, a municipal corporation of the State of California ("*Lessee*").

WITNESSETH:

WHEREAS, Lessee desires to lease and acquire from Lessor certain Equipment described in each Schedule (as each such term is defined herein), subject to the terms and conditions of and for the purposes set forth in each Lease; and in the event of a conflict the terms of a Schedule prevail; and

WHEREAS, the relationship between the parties shall be a continuing one and items of equipment may be added to the Equipment from time to time by execution of additional Schedules by the parties hereto and as otherwise provided herein; and

WHEREAS, Lessee is authorized under the constitution and laws of the State to enter into this Agreement and the Schedules hereto for the purposes set forth herein;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

ARTICLE I

Section 1.01. Definitions. The following terms will have the meanings indicated below unless the context clearly requires otherwise:

"*Acceptance Certificate*" shall mean the certificate in form attached hereto as Exhibit B.

"*Acquisition Amount*" means the amount specified in each Lease and represented by Lessee to be sufficient to acquire the Equipment listed in such Lease, which amount shall be not less than \$100,000 for each Lease.

"*Acquisition Fund*" means, with respect to any Lease, the fund established and held by the Acquisition Fund Custodian pursuant to the related Acquisition Fund Agreement, if any.

"*Acquisition Fund Agreement*" means, with respect to any Lease, an Acquisition Fund and Account Control Agreement in form and substance acceptable to and executed by Lessee, Lessor and the Acquisition Fund Custodian, pursuant to which an Acquisition Fund is established and administered.

"*Acquisition Fund Custodian*" means the Acquisition Fund Custodian identified in any Acquisition Fund Agreement, and its successors and assigns.