

ATTACHMENT B

RESOLUTION NO. 25-003

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF VICTORVILLE, CALIFORNIA, APPROVING A CONTRACT FOR THE SALE AND PURCHASE OF NATURAL GAS WITH MORGAN STANLEY CAPITAL GROUP, INC.; AUTHORIZING THE CITY MANAGER TO EXECUTE SAID CONTRACT; AND EMPOWERING THE CITY MANAGER TO EXECUTE CONFIRMATIONS AND OTHER NECESSARY DOCUMENTS CONTEMPLATED BY SAID CONTRACT

WHEREAS, the City of Victorville (the “City”), a California municipal corporation and charter city, is authorized under various California laws (including, specifically, Article XI, Sections 5 and 9 of the California Constitution, California Public Utilities Code Section 10001 et seq., and Government Code Section 39732) to establish, purchase, and operate a public utility to furnish its inhabitants with, among other things, natural gas; and

WHEREAS, the City has heretofore established and operates a municipal electric and gas utility (“**Victorville Municipal Utility Services**” or “**VMUS**”); and

WHEREAS, to utilize the City’s new gas delivery point on the High Desert Lateral/Kern Interconnection to serve VMUS customers, the City sought to procure gas supply from reputable and creditworthy marketers for delivery into the Kern River capacity and ultimate delivery into the VMUS distribution system; and

WHEREAS, pursuant to the City’s Request for Proposal (“**RFP**”) issued on August 22, 2024, Morgan Stanley Capital Group, Inc. (“**MSCG**”) was among the potential gas suppliers submitting responsive proposals to the City; and

WHEREAS, based upon the General Terms and Conditions for Sale and Purchase of Natural Gas published by the North American Energy Standards Board and in connection with the RFP response, the City and MSCG have negotiated the following: (1) a Base Contract for the Purchase and Sale of Natural Gas (the “**Base Contract**”); (2) Special Provisions to the Base Contract; (3) a Model Credit Support Addendum (the “**CSA**”); and (4) Special Provisions to the CSA (collectively hereinafter the “**NAESB Contract**”), which now require approval and execution; and

WHEREAS, because the NAESB Contract was negotiated and does not qualify as an industry standard energy purchase contract under Victorville Municipal Code (“**VMC**”) Section 2.28.320, VMC Section 2.28.330 does not authorize the Victorville City Manager (“**City Manager**”) to approve and execute said contract and the approval of the governing body of the City (the “**City Council**”) is therefore required; and

WHEREAS, VMC Section 2.28.030 and the doctrine of delegation of authority permit the City Council by resolution to expressly authorize execution of contracts by the City Manager or other City officials following their approval/award by the City Council, and to delegate the authority to take further actions in accordance with standards provided by the City Council; and

WHEREAS, the natural gas purchases contemplated by the NAESB Contract will also require execution of certain Transaction Confirmations (substantially in the form set out in Exhibit A of the Base Contract), which Transaction Confirmations are time-sensitive and necessary to ensure proper quantities and availability of purchased natural gas; and

WHEREAS, to enable and facilitate the proposed natural gas transactions, the City Council wishes to approve the NAESB Contract, authorize the City Manager to execute same on behalf of the City, and to further authorize the City Manager to execute such Transaction Confirmations and other ancillary documents and agreements as may be necessary to administer the NAESB Contract and the transactions contemplated thereby.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF VICTORVILLE, DOES RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Recitals

That the Recitals set forth above are true and correct, and together with the definitions contained therein are hereby incorporated into and made an operative part of this Resolution.

Section 2. NAESB Contract Approved

That the NAESB Contract, as defined in the recitals of this Resolution and attached hereto as Exhibit 1, is hereby approved.

Section 3. NAESB Contract Approved for Execution by City Manager

That the City Manager is authorized to execute the NAESB Contract on behalf of the City.

Section 4. Additional City Manager Authorization; Limitations

That the City Manager, or such person as he/she may designate in writing, is authorized to take such further actions as are required to implement the transactions contemplated by the NAESB Contract, including the execution of Transaction Confirmations and any additional ancillary agreements or documents that may be required; provided that the foregoing items are: (a) within the scope of and contemplated by the express provisions of the NAESB Contract; and (b) in the case of ancillary agreements or other documents, reviewed and approved by the City's outside utility counsel and the City Attorney prior to any such execution.

Section 5. Effective Date

That this Resolution shall take effect immediately upon its adoption.

Section 6. Resolution Certification

That the City Clerk shall certify to the passage and adoption of this Resolution.