

OFFICE OF THE CITY CLERK
OAKLAND
2008 JUN -5 AM 11:40

REVISED

Approved as to Form and Legality
[Signature]
City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO:

- (1) **EXERCISE THE RENEWAL CLAUSE OF THE MASTER LEASE-PURCHASE AGREEMENT WITH SUN MICROSYSTEMS FINANCE, INC., TO FINANCE THE PURCHASE OF THE HARDWARE, EQUIPMENT, SOFTWARE AND SERVICES NECESSARY TO ACCOMPLISH A "TECHNOLOGY REFRESH" OF THE CITY'S PRIMARY INFORMATION TECHNOLOGY SYSTEMS INFRASTRUCTURE IN A FINANCE AMOUNT NOT-TO-EXCEED THREE MILLION TWO HUNDRED TWENTY-TWO THOUSAND FIVE HUNDRED DOLLARS (\$3,222,500.00), AND**
- (2) **PURCHASE THE SUN MICROSYSTEMS EQUIPMENT AND SERVICES FROM GOVSTOR, LLP THROUGH A STATE OF CALIFORNIA DEPARTMENT OF GENERAL SERVICES COOPERATIVE AGREEMENT ESTABLISHED UNDER THE CALIFORNIA STRATEGIC SOURCING INITIATIVE STATEWIDE CONTRACT PROGRAM IN AN AMOUNT NOT-TO-EXCEED TWO MILLION FOUR HUNDRED NINETY-TWO THOUSAND EIGHT HUNDRED ONE DOLLARS (\$2,492,801.00), AND**
- (3) **BID AND AWARD CONTRACTS TO THIRD PARTY VENDORS FOR THE PURCHASE OF RELATED EQUIPMENT AND SERVICES NEEDED FOR THE SUN MICROSYSTEMS' TECHNOLOGY REFRESH IN AN AMOUNT NOT TO EXCEED FOUR HUNDRED SEVENTY THOUSAND FOUR HUNDRED SEVENTY FOUR DOLLARS (\$470,474.00), WITHOUT RETURN TO COUNCIL, PURSUANT TO THE CITY'S ADVERTISING AND BIDDING REQUIREMENTS FOR SUCH CONTRACTS**

WHEREAS, the City of Oakland (City) desires to execute the Technology Refresh Clause of the Master Lease-Purchase Agreement that was executed between the City and Sun Microsystems Finance Inc. ("Sun Finance") on August 7, 2004 and approved by the City Council in Resolution No. 78453 on April 6, 2004; and,

WHEREAS, in response to phone/email/fax solicitations for financing rate quotes from various banking institutions, the Treasury Department determined that the financing rates offered by the banks were slightly less competitive than Sun Finance's offer of 3.1 percent; and

WHEREAS, the technology refresh clause provides the City with the option to upgrade, replace, or add equipment after the mid-term of the lease with discounts and terms as similarly situated customers; and

WHEREAS, the City must execute the technology refresh to avoid equipment obsolesces and lack of processing capacity that could negatively impact the performance and growth of the City's Oracle Applications and other emerging applications designed to provide services to all city agencies and departments; and

WHEREAS, Sun Microsystems Inc. (Sun Microsystems) has demonstrated that it can provide the necessary equipment and services and has the qualifications and technical experience to perform the technology refresh; and,

WHEREAS, the City will purchase the Sun Microsystems equipment and services from Govstor, LLC located at 830 Jefferson Blvd., Suite 30, West Sacramento, California under the California Strategic Sourcing Initiative (CSSI) Statewide Contract Agreement; and,

WHEREAS, the City has the determined that the State of California Department of General Services has entered into a Statewide CSSI Contract with Govstor, LLC for the procurement of Sun Microsystems equipment and services by state and local government agencies and Oakland Municipal Code Section 2.04.080 (Cooperative Purchasing Agreements) authorizes purchases without advertising and bidding through other governmental contracts; and,

WHEREAS, the CSSI contract was awarded to Govstor, LLC through a competitive bid process to establish the best value supplier to procure the Sun Microsystems equipment and services on a statewide basis; and,

WHEREAS, in accordance with Charter section 902(e), the City Council finds that because of the financial savings the City will realize from procuring the Sun Microsystems equipment and services through Govstor, LLC under the CSSI contract, it is in the public interest to purchase the equipment and services necessary to perform the technology refresh directly from Govstor, LLC; and,

WHEREAS, the City must purchase third party equipment and services to support Sun Microsystems' performance of the technology refresh to ensure a turnkey installation; and,

WHEREAS, the City will comply fully with the City advertising and bidding requirements of Section 2.04.050 and the competitive RFP/RFQ selection requirements of Section 2.04.051 A. of the Oakland Municipal Code (the "OMC"), to purchase products and services from Third Party vendors to support the Sun Microsystems' technology refresh; and,

WHEREAS, the City of Oakland will request informal competitive bid quotations from third party vendors to purchase the third party equipment and services to support Sun Microsystems' performance of the technology refresh; and,

WHEREAS, the City will provide local vendors maximum opportunity to bid on the third party equipment and services; and,

WHEREAS, City Council desires to finance the equipment and services to be provided by Sun Microsystems and third party vendors through the renewal of the Master Lease-Purchase Agreement between the City and Sun Finance dated August 7, 2004; and

WHEREAS, City Council finds that the services provided pursuant to the agreement authorized hereunder are of a professional and specialized nature;

NOW THEREFORE, the City Council of the City of Oakland hereby finds, determines, declares and resolves as follows:

RESOLVED: That the proposed form of the Master Lease-Purchase Agreement by and between the City and Sun Finance, on file with the City Clerk, is hereby approved. The City Administrator, the Director of the Finance and Management Agency or the Treasury Manager, or a designee of any such official, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver, Master Lease-Purchase Agreement, substantially in such form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution thereof; provided, however, that interest rate on the Master Lease-Purchase Agreement shall not exceed 4%, the term of the Master Lease-Purchase Agreement shall not exceed five (5) years; and the aggregate amount to be paid pursuant to the terms of the Master Lease-Purchase Agreement shall not exceed \$3,222,500, provided that such lease/finance documents will be reviewed for form and legality by the City Attorney; and be it

FURTHER RESOLVED: That the proposed form of Escrow Agreement, by and between the City, and an escrow agent to be selected by the City Administrator, the Director of the Finance and Management Agency or Treasury Manager, or a designee of any such official, on file with the City Clerk, is hereby approved. The City Administrator, Director of the Finance and Management Agency or Treasury Manager, or a designee of any such official, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver, in connection with each Lease, an escrow agreement in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof, provided that such escrow documents will be reviewed for form and legality by the City Attorney; and be it

FURTHER RESOLVED: That the City Administrator, Director of the Finance and Management Agency, Treasury Manager and other appropriate officers of the City are

hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents and certificates which they deem necessary or advisable in order to consummate the execution and delivery of the documents mentioned herein and otherwise to effectuate the purposes of this Resolution and the transactions contemplated hereby, including, but not limited to, entering into agreements, executing contracts and/or purchase orders, and appropriating lease finance funds from Sun Finance, or to such financial entities to be selected by the City Administrator, Director of the Finance and Management Agency or Treasury Manager at such terms that are consistent with the pricing parameters set forth in this Resolution, and expending and allocating such funds to Govstor, LLC and to third party vendors for acquisition of Sun Microsystems equipment and services and third party vendor services, software, and tools; and executing related contract documents to performance the technology refresh including, but not limited to, a Products and Services Warranty, a Maintenance Agreement and Statement of Work, provided that all such certificates, contracts, agreements, purchase orders and all related lease and loan documents will be reviewed for form and legality by the City Attorney; and be it

FURTHER RESOLVED: That the City Council hereby authorizes the City Manager or her designee to approve any subsequent amendments to or extensions of said Agreements with the exception of those related to an increase in the contract price or the allocation of additional funds provided that such amendments or extensions shall be reviewed for form and legality by the City Attorney and filed with the City Clerk's office; and be it

FURTHER RESOLVED: That the proceeds of the sale of the Leases may be invested in any Permitted Investment set forth in the Escrow Agreement, including but not limited to the State of California Local Agency Investment Fund or any other investment in accordance with the City's then-current Investment Policy, and be it

FURTHER RESOLVED: That the City Administrator is authorized to advertise, bid and award contracts to third party vendors for the purchase of third party equipment and services to support Sun Microsystems' performance of the Technology Refresh, in an amount not-to-exceed \$470,474, without return to Council, provided such contract/purchase order documents are reviewed for form and legality by the City Attorney and filed with the City Clerk; and be it

FURTHER RESOLVED: That the City will select such third party vendors for the purchase of equipment and services by advertising and competitive bidding with award to the lowest responsible/responsive bidder, as required by Oakland Municipal Code Section 2.04.050; and be it

FURTHER RESOLVED: That all actions heretofore taken by the officers and agents of the City Council with respect to the transactions contemplated hereby are hereby ratified, confirmed and approved, and be it

FURTHER RESOLVED: That this Resolution shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20__

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California

REVISED

Approved as to Form and Legality

OFFICE OF THE CITY CLERK
OAKLAND

City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

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WHEREAS, the City of Oakland (City) desires to execute the Technology Refresh Clause of the Master Lease-Purchase Agreement that was executed between the City and Sun Microsystems Finance Inc. ("Sun Finance") on August 7, 2004 and approved by the City Council in Resolution No. 78453 on April 6, 2004; and,

Whereas, in response to phone/email/fax solicitations for financing rate quotes from various banking institutions, the Treasury Department determined that the financing rates offered by the banks were slightly less competitive than Sun Finance's offer of 3.1 percent, and

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WHEREAS, the technology refresh clause provides the City with the option to

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WHEREAS, the City must execute the technology refresh to avoid equipment obsolesces and lack of processing capacity that could negatively impact the performance and growth of the City's Oracle Applications and other emerging applications designed to provide services to all city agencies and departments; and

WHEREAS, Sun Microsystems Inc. (Sun Microsystems) has demonstrated that it can provide the necessary equipment and services and has the qualifications and technical experience to perform the technology refresh; and,

WHEREAS, the City will purchase the Sun Microsystems equipment and services from Govstor, LLC located at 830 Jefferson Blvd., Suite 30, West Sacramento, California under the California Strategic Sourcing Initiative (CSSI) Statewide Contract Agreement; and,

WHEREAS, the City has the determined that the State of California Department of General Services has entered into a Statewide CSSI Contract with Govstor, LLC for the procurement of Sun Microsystems equipment and services by state and local government agencies and Oakland Municipal Code Section 2.04.080 (Cooperative Purchasing Agreements) authorizes purchases without advertising and bidding through other governmental contracts; and,

WHEREAS, the CSSI contract was awarded to Govstor, LLC through a competitive bid process to establish the best value supplier to procure the Sun Microsystems equipment and services on a statewide basis; and,

WHEREAS, in accordance with Charter section 902(e), the City Council finds that because of the financial savings the City will realize from procuring the Sun Microsystems equipment and services through Govstor, LLC under the CSSI contract, it is in the public interest to purchase the equipment and services necessary to perform the technology refresh directly from Govstor, LLC; and,

WHEREAS, the City must purchase third party equipment and services to support Sun Microsystems' performance of the technology refresh to ensure a turnkey installation; and,

~~**WHEREAS**, the City will comply fully with the City advertising and bidding requirements of Section 2.04.050 and the competitive RFP/RFO selection requirements of Section 2.04.051 A. of the Oakland Municipal Code (the "OMC") to purchase products and services from third party vendors to support the Sun Microsystems technology refresh;~~
and,

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WHEREAS, the City of Oakland will request informal competitive bid quotations from third party vendors to purchase the third party equipment and services to support Sun Microsystems' performance of the technology refresh; and,

WHEREAS, the City will provide local vendors maximum opportunity to bid on the third party equipment and services; and,

WHEREAS, City Council desires to finance the equipment and services to be provided by Sun Microsystems and third party vendors through the renewal of the Master Lease-Purchase Agreement between the City and Sun Finance dated August 7, 2004; and

WHEREAS, City Council finds that the services provided pursuant to the agreement authorized hereunder are of a professional and specialized nature;

NOW THEREFORE, the City Council of the City of Oakland hereby finds, determines, declares and resolves as follows:

RESOLVED, that the proposed form of the Master Lease-Purchase Agreement by and between the City and Sun Finance, on file with the City Clerk, is hereby approved. The City Administrator, the Director of the Finance and Management Agency or the Treasury Manager, or a designee of any such official, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver, Master Lease-Purchase Agreement, substantially in such form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution thereof; provided, however, that interest rate on the Master Lease-Purchase Agreement shall not exceed 4%, the term of the Master Lease-Purchase Agreement shall not exceed five (5) years; and the aggregate amount to be paid pursuant to the terms of the Master Lease-Purchase Agreement shall not exceed \$3,222,500, provided that such lease/finance documents will be reviewed for form and legality by the City Attorney; and be it

FURTHER RESOLVED, that the proposed form of Escrow Agreement, by and between the City, and an escrow agent to be selected by the City Administrator, the Director of the Finance and Management Agency or Treasury Manager, or a designee of any such official, on file with the City Clerk, is hereby approved. The City Administrator, Director of the Finance and Management Agency or Treasury Manager, or a designee of any such official, is hereby authorized and directed, for and in the name and on behalf of the City, to execute and deliver, in connection with each Lease, an escrow agreement in substantially said form, with such changes therein as such officer may require or approve, such approval to be conclusively evidenced by the execution and delivery thereof, provided that such escrow documents will be reviewed for form and legality by the City Attorney; and be it

FURTHER RESOLVED, that the City Administrator, Director of the Finance and Management Agency, Treasury Manager and other appropriate officers of the City are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents and certificates which they deem necessary or advisable in order to consummate the execution and delivery of the documents mentioned herein and otherwise to effectuate the purposes of this Resolution and the transactions contemplated hereby, including, but not limited to, entering into agreements, executing contracts and/or purchase orders, and appropriating lease finance funds from Sun Finance, or to such financial entities to be selected by the City Administrator, Director of the Finance and Management Agency or Treasury Manager at such terms that are consistent with the pricing parameters set forth in this Resolution, and expending and allocating such funds to Govstor, LLC and to third party vendors for acquisition of Sun Microsystems equipment and services and third party vendor services, software, and tools; and executing related contract documents to performance the technology refresh including, but not limited to, a Products and Services Warranty, a Maintenance Agreement and Statement of Work, provided that all such certificates, contracts, agreements, purchase orders and all related lease and loan

documents will be reviewed for form and legality by the City Attorney; and be it

FURTHER RESOLVED, that the City Council hereby authorizes the City Manager or her designee to approve any subsequent amendments to or extensions of said Agreements with the exception of those related to an increase in the contract price or the allocation of additional funds provided that such amendments or extensions shall be reviewed for form and legality by the City Attorney and filed with the City Clerk's office; and be it

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FURTHER RESOLVED, that the proceeds of the sale of the Leases may be invested in any Permitted Investment set forth in the Escrow Agreement, including but not limited to the State of California Local Agency Investment Fund or any other investment in accordance with the City's then-current Investment Policy, and be it

FURTHER RESOLVED, that the City Administrator is authorized to advertise, bid and award contracts to third party vendors for the purchase of third party equipment and services to support Sun Microsystems' performance of the Technology Refresh, in an amount not-to-exceed \$470,474, without return to Council, provided such contract/purchase order documents are reviewed for form and legality by the City Attorney and filed with the City Clerk; and be it

Deleted: **FURTHER RESOLVED**, that with respect to the purchase of third party equipment and services from third party vendors to support Sun Microsystems' performance of the technology refresh, the Council hereby finds and determines that the City shall fully comply with the formal bidding requirements of OMC Section 2.04.050 and the competitive RFP/REQ selection requirements of OMC Section 2.04.051.A; and be it
FURTHER RESOLVED, that the City Administrator is authorized to informal bid

FURTHER RESOLVED, that the City will select such third party vendors for the purchase of equipment and services by advertising and competitive bidding with award to the lowest responsible/responsive bidder, as required by Oakland Municipal Code Section 2.04.050; and be it

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FURTHER RESOLVED, that all actions heretofore taken by the officers and agents of the City Council with respect to the transactions contemplated hereby are hereby ratified, confirmed and approved, and be it

FURTHER RESOLVED, that this Resolution shall take effect immediately upon its passage.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2007

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LaTonda Simmons
City Clerk and Clerk of the Council
of the City of Oakland, California