

FILED
OFFICE OF THE CITY CLERK
OAKLAND

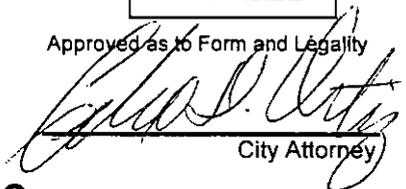
2013 FEB -7 PM 1:33

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

REVISED

Approved as to Form and Legality


City Attorney

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO: (A) IMPLEMENT A SOLAR POWER PROCUREMENT PROJECT BY SIGNING A MEMORANDUM OF UNDERSTANDING WITH ALAMEDA COUNTY FOR THE REGIONAL RENEWABLE ENERGY PROCUREMENT PROJECT; AND (B) ENTER INTO SOLAR POWER PURCHASE AGREEMENTS WITH CONTRACTOR(S) SELECTED THROUGH THE COUNTY'S REGIONAL RENEWABLE ENERGY REQUEST FOR PROPOSALS IN AN AMOUNT NOT TO EXCEED THREE-MILLION TWO-HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$3,225,000) DURING THE TERM OF THE AGREEMENT; AND (C) APPROPRIATE RELATED INCENTIVES; ALL WITHOUT RETURNING TO COUNCIL

WHEREAS, the City's Energy and Climate Action Plan calls upon Oakland to use 62 million kilowatt-hours of electricity from renewable sources to help achieve the goal of reducing community-wide greenhouse gas emissions by 36% below 2005 levels by 2020; and

WHEREAS, the County of Alameda, in association with Joint Venture Silicon Valley and Contra Costa Economic Partnership, has established the Regional Renewable Energy Procurement (R-REP) project with the intention of installing solar panels at approximately 170 sites owned by public agencies throughout Alameda, Contra Costa, San Mateo, and Santa Clara Counties totaling up to 40 megawatts of solar energy; and

WHEREAS, the City has viable sites for renewable energy projects, capable of generating approximately 376 300 kilowatts of power and approximately 500,000 kilowatt-hours of electricity annually; and

WHEREAS, a Power Purchasing Agreement (PPA), including related roof access agreements, will allow the City to purchase renewable energy from a contractor with maintenance provided by the contractor, at prices that may result in annual electricity costs that are less than the amount the City would otherwise pay Pacific Gas and Electric Company (PG&E), and with the option for the City to purchase the associated generation systems at fair market value at the end of the agreement; and

WHEREAS, R-REP provides participants with access to many County-solicited contractors, reduced project management cost, free technical and financial consultant assistance through the contract negotiations, reduced PPA cost by bundling projects with other participants' sites; and

WHEREAS, ~~the Oakland Municipal Code (OMC), Section 2.04.080—Cooperative Purchasing Agreement states, "Where advantageous for the city, the City Administrator may purchase supplies or services as defined in Section 2.04.010, through legal contracts of other governmental jurisdictions or public agencies without further contracting, solicitation, or formal bidding"; and~~

WHEREAS, the City will appropriate available rebates in the estimated amount of \$67,000 ~~\$60,000~~ from the California Solar Initiative or assign them to a PPA contractor, PPA Contractors will have access to a Federal Tax incentive through December 31, 2016, and may depreciate these systems under the Modified Accelerated Cost Recovery System (MACRS) available through 2016; therefore, now be it

RESOLVED: That it is in the best interest of the City to enter into an MOU with the County to participate in the R-REP program; and be it

FURTHER RESOLVED: the City Administrator or her designee is authorized to sign the MOU with the County; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to enter into a PPA, in an amount not to exceed \$3,225,000 during the term of the agreement provided that annual payments are less than the amount that the City would otherwise pay PG&E and less than \$120,000 in the first year, with Contractors selected through the R-REP process without returning to Council; and be it

FURTHER RESOLVED: That related incentives be appropriated to energy projects; and be it

FURTHER RESOLVED: That the City Administrator or her designee is hereby authorized and empowered to approve any subsequent amendments to or extensions of said agreement with the exception of those related to an increase in total compensation or the allocation of additional funds, provided that such amendments or extensions shall be reviewed by the City Attorney and filed with the City Clerk's Office; and be it

FURTHER RESOLVED: That a copy of the agreement will be on file in the City Clerk's Office and will be approved by the Office of the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, KALB, KAPLAN, McELHANEY, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

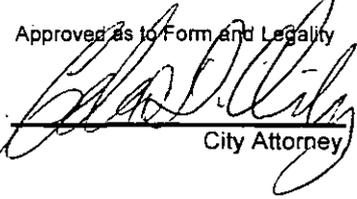
ABSENT -

ABSTENTION -

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

Option B

FILED
OFFICE OF THE CITY CLERK
OAKLAND

Approved as to Form and Legality

City Attorney

OAKLAND CITY COUNCIL

2013 FEB -7 PM 1:34

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO: (A) WAIVE THE COMPETITIVE REQUEST FOR PROPOSAL/QUALIFICATION REQUIREMENTS; AND ENTER INTO AN EXCLUSIVE NEGOTIATION AGREEMENT FOR A SOLAR POWER PURCHASE AGREEMENT WITH NRG SOLAR LLC; AND (B) ENTER INTO A SOLAR POWER PURCHASE AGREEMENT WITH NRG SOLAR LLC IN AN AMOUNT NOT TO EXCEED THREE-MILLION TWO-HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$3,225,000) DURING THE TERM OF THE AGREEMENT; AND (C) ENTER INTO PROFESSIONAL SERVICES AGREEMENTS WITH SOLAR POWER CONSULTANTS IN AN AMOUNT NOT TO EXCEED SEVENTY FIVE THOUSAND DOLLARS (\$75,000); AND WAIVE THE FORMAL COMPETITIVE REQUEST FOR PROPOSAL/QUALIFICATION PROCESS REQUIREMENTS, SMALL AND LOCAL BUSINESS ENTERPRISE PROGRAM REQUIREMENTS FOR PROFESSIONAL SERVICES; AND (D) APPROPRIATE RELATED INCENTIVES; ALL WITHOUT RETURNING TO COUNCIL

WHEREAS, the City's Energy and Climate Action Plan calls upon Oakland to use 62 million kilowatt-hours of electricity from renewable sources to help achieve the goal of reducing community-wide greenhouse gas emissions by 36% below 2005 levels by 2020; and

WHEREAS, the City has viable sites for renewable energy projects, capable of generating approximately 376 kilowatts of power and approximately 500,000 kilowatt-hours of electricity annually; and

WHEREAS, a Power Purchasing Agreement (PPA), including related solar roof access agreements, will allow the City to purchase renewable energy from a contractor with maintenance provided by the contractor, at prices that may result in annual electricity costs that are less than the amount the City would otherwise pay Pacific Gas and Electric Company (PG&E), and with the option for the City to purchase the associated generation systems at fair market value at the end of the agreement; and

WHEREAS, NRG Solar LLC delivered an unsolicited Indicative Proposal for the City of Oakland, dated September 25, 2012 to the City for a PPA at numerous undisclosed City facilities; and

WHEREAS, the City will appropriate available rebates in the estimated amount of \$67,000 from the California Solar Initiative or assign them to NRG Solar LLC, and NRG Solar LLC will have access to a Federal Tax incentive through December 31, 2016, and may depreciate these systems under the Modified Accelerated Cost Recovery System (MACRS) available through 2016; and

WHEREAS, Section 2.04.040 B 4 and 2.04.051 A, respectively of the Oakland Municipal Code (the “OMC”) require the City to conduct a formal advertising and competitive Request For Qualifications/Proposals (“RFQ/RFP”) selection process for professional services agreements over \$25,000; and

WHEREAS, Section 2.04.051 B of the OMC authorizes the City Council to waive the advertising and competitive RFQ/RFP selection requirement if it finds that it is in the City’s best interests to do so; and

WHEREAS, the Report accompanying this Resolution provides details of minimum terms for negotiation with NRG Solar LLC; and

WHEREAS, the City can negotiate an agreement with NRG Solar LLC that is of a higher quality, with faster speed, by quickly obtaining professional services from consultants with expertise in solar power project contracting and financing to supplement the expertise of City Staff; and

WHEREAS, the most suitable consultants with the necessary expertise may not meet the requirements of the Small and Local Business Enterprise Program requirements for professional services, and

WHEREAS, the City will appropriate available rebates in the estimated amount of \$67,000 from the California Solar Initiative, NRG Solar LLC will have access to a Federal Tax incentive through December 31, 2016, and may depreciate these systems under the Modified Accelerated Cost Recovery System (MACRS) available through 2016; therefore, now be it

RESOLVED: That the Council pursuant to OMC Section 2.04.051 B, hereby finds and determines that it is in the best interests of the City to waive the formal advertising and competitive RFQ/RFP selection requirement of the OMC for a Solar Power Purchase Agreement because negotiations with NRG Solar LLC may result in better electricity pricing for the City; and be it

FURTHER RESOLVED: That the Council pursuant to OMC Section 2.04.50 1.5 and Section 2.04.051 B, hereby finds and determines that it is in the best interests of the City to waive the formal advertising and competitive RFQ/RFP selection requirements of the OMC, and the Small and Local Business Enterprise program requirements for professional services to acquire specialized technical and financial expertise in time and to support timely application to the California Solar Initiative to improve certainty of receiving incentives; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to enter into exclusive negotiations for a power purchase agreement with NRG Solar LLC and its affiliates; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to enter into professional services agreements in an amount not to exceed \$75,000, with consultants as necessary to support negotiations with NRG Solar LLC for power purchase agreements without returning to Council; and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to enter into a power purchase agreement with NRG Solar LLC or its affiliate in an amount not to exceed \$3,225,000 during the term of the agreement provided that annual payments are less than the amount that the City would otherwise pay PG&E and less than \$120,000 in the first year, and according to the negotiating goals in the Report accompanying this Resolution; and be it

FURTHER RESOLVED: That related incentives shall be appropriated for use in energy projects or assigned to the PPA contractor; and be it

FURTHER RESOLVED: That the City Administrator or her designee is hereby authorized to approve any subsequent amendments to or extensions of said agreement with the exception of those related to an increase in the total dollar amount of the agreement; and, be it

FURTHER RESOLVED: That a copy of the agreement will be on file in the City Clerk's Office and will be reviewed and approved for form and legality by the Office of the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, KALB, KAPLAN, McELHANEY, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

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

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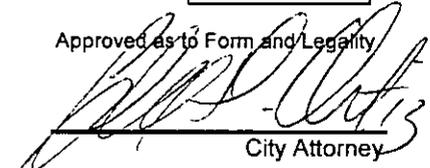
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OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

Option C

Approved as to Form and Legality


City Attorney

A RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO: (A) ENTER INTO PROFESSIONAL SERVICES AGREEMENTS WITH SOLAR POWER CONSULTANTS IN AN AMOUNT NOT TO EXCEED NINETY THOUSAND DOLLARS (\$90,000); AND WAIVE THE FORMAL COMPETITIVE REQUEST FOR PROPOSAL/QUALIFICATION PROCESS REQUIREMENTS, SMALL AND LOCAL BUSINESS ENTERPRISE PROGRAM REQUIREMENTS FOR PROFESSIONAL SERVICES; AND (B) ENTER INTO A POWER PURCHASING AGREEMENT WITH A DESIGN-BUILD CONTRACTOR SELECTED ACCORDING TO A FORMAL COMPETITIVE REQUEST FOR PROPOSAL/QUALIFICATIONS PROCESS IN AN AMOUNT NOT TO EXCEED THREE-MILLION TWO-HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$3,225,000) DURING THE TERM OF THE AGREEMENT; AND (C) APPROPRIATE RELATED INCENTIVES; ALL WITHOUT RETURNING TO COUNCIL

WHEREAS, the City's Energy and Climate Action Plan calls upon Oakland to use 62 million kilowatt-hours of electricity from renewable sources to help achieve the goal of reducing community-wide greenhouse gas emissions by 36% below 2005 levels by 2020; and

WHEREAS, the City has viable sites for renewable energy projects, capable of generating approximately 376 kilowatts of power and approximately 500,000 kilowatt-hours of electricity annually; and

WHEREAS, a Power Purchasing Agreement (PPA), including related roof access agreements, will allow the City to purchase renewable energy from a contractor with maintenance provided by the contractor, at prices that may result in annual electricity costs that are less than the amount the City would otherwise pay Pacific Gas and Electric Company (PG&E), and with the option for the City to purchase the associated generation systems at fair market value at the end of the agreement; and

WHEREAS, numerous contractors are available and interested in participating in a competitive solicitation for power purchase agreements; and

WHEREAS, the City can solicit proposals and execute agreements of a higher quality with faster speed by quickly obtaining professional services from consultants with expertise in solar power project contracting and financing to supplement the expertise of City Staff; and

WHEREAS, the most suitable consultants with the necessary expertise may not meet the requirements of the Small and Local Business Enterprise Program requirements for professional services, and

WHEREAS, Section 2.04.040 B 4 and 2.04.051 A, respectively of the Oakland Municipal Code (“the OMC”) require the City to conduct a formal advertising and competitive Request For Qualifications/Proposals (“RFQ/RFP”) selection process for professional services agreements over \$25,000.00; and

WHEREAS, Section 2.04.051 B of the OMC authorizes the City Council to waive the advertising and competitive RFQ/RFP selection requirement if it finds that it is in the City’s best interests to do so; and

WHEREAS, the City will appropriate available rebates in the estimated amount of \$67,000 from the California Solar Initiative or assign them to a PPA contractor, and PPA Contractors will have access to a Federal Tax incentive through December 31, 2016, and may depreciate these systems under the Modified Accelerated Cost Recovery System (MACRS) available through 2016; therefore, now be it

RESOLVED: That the Council pursuant to OMC Section 2.04.50 1.5 and Section 2.04.051 B, hereby finds and determines that it is in the best interests of the City to waive the formal advertising and competitive RFQ/RFP selection requirements of the OMC, and the Small and Local Business Enterprise program requirements for professional services to acquire specialized technical and financial expertise in time and to support timely application to the California Solar Initiative to improve certainty of receiving incentives; and be it

FURTHER RESOLVED: That the City Administrator is authorized to enter into professional services agreements in an amount not to exceed \$90,000 with consultants as necessary to conduct a solicitation for power purchase agreements without returning to Council; and be it

FURTHER RESOLVED: That the City Administrator, or her designee, is hereby authorized to enter into a power purchasing agreement in an amount not to exceed \$3,225,000 during the term of the agreement provided that annual payments are less than the amount that the City would otherwise pay PG&E and less than \$120,000 in the first year, without returning to Council; and, be it

FURTHER RESOLVED: That the City Administrator or her designee is hereby authorized and empowered to approve any subsequent amendments to or extensions of said agreement with the exception of those related to an increase in total compensation or the allocation of additional funds, provided that such amendments or extensions shall be reviewed by the City Attorney and filed with the City Clerk’s Office; and be it

FURTHER RESOLVED: That a copy of the agreement will be on file in the City Clerk's Office and will be reviewed and approved for form and legality by the Office of the City Attorney.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, KALB, KAPLAN, McELHANEY, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

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