

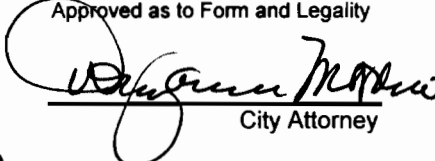
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OFFICE OF THE CITY CLERK  
OAKLAND

2010 JUN 30 AM 10:52

# OAKLAND CITY COUNCIL

RESOLUTION No. 82903 C.M.S.

Approved as to Form and Legality

  
City Attorney

**RESOLUTION WAIVING SOLICITATION FOR FIXED, SEALED BIDS AND PRICE-BASED AWARD REQUIREMENTS AND AUTHORIZING THE CITY ADMINISTRATOR OR DESIGNEE TO:**

- 1. AWARD A DESIGN-BUILD AGREEMENT TO UNITED COMFORT SOLUTIONS, INC. FOR ENERGY EFFICIENCY IMPROVEMENTS TO THE HEATING, VENTILATING AND AIR CONDITIONING (HVAC) SYSTEM CONTROLS FOR THE CIVIC CENTER COMPLEX BUILDINGS FOR AN AMOUNT NOT TO EXCEED SIX HUNDRED NINETY-FIVE THOUSAND DOLLARS (\$695,000.00), TO BE PAID IN PART WITH FEDERAL GOVERNMENT STIMULUS PACKAGE FUNDS; AND**
- 2. ACCEPT AND APPROPRIATE ENERGY-RELATED REBATES IN PROJECT NUMBERS C388910 (CIVIC CENTER DATA CENTER SERVER VIRTUALIZATION), AND C389010 (CIVIC CENTER ELECTRONIC HVAC CONTROL UPGRADES BUILDING AUTOMATION SYSTEM) FOR ENERGY EFFICIENCY IMPROVEMENTS TO THE HVAC SYSTEM CONTROLS FOR THE CIVIC CENTER COMPLEX BUILDINGS; AND**
- 3. APPROPRIATE FIFTY-FIVE THOUSAND FOUR HUNDRED FIVE DOLLARS (\$55,405.00) OF ENERGY REBATE FUNDS IN PROJECT H33620 (CEC LOAN – HVAC CONSERVATION) FOR ENERGY EFFICIENCY IMPROVEMENTS TO THE HVAC SYSTEM CONTROLS FOR THE CIVIC CENTER COMPLEX BUILDINGS**

**WHEREAS**, the City Council authorized application for American Recovery and Reinvestment Act of 2009 (ARRA) funds for this project in Resolution No. 82092 C.M.S, and the Department of Energy awarded the City a grant for energy efficiency improvements to its municipal assets, including municipal buildings, under the ARRA, Energy Efficiency and Conservation Block Grant (EECBG) Formula Program; and

**WHEREAS**, the shared goals of the City and the ARRA include creating jobs quickly, improving energy efficiency and reducing greenhouse gas emissions; and

**WHEREAS**, the City has appropriated funds totaling \$695,000 to implement this project with \$624,595 in Department of Energy-EECBG Program (ARRA) Fund (2609), Environmental Services Energy Group Organization (30689), distributed among the Civic Center Electronic HVAC Control Upgrades BAS Project (C389010) and the Civic Center Data Center Server Virtualization Project (C388910), and \$55,405 in City Facilities Energy Conservation Projects Fund (4450), Environmental Services Energy Group Organization (30689), California Exchange Commission (CEC) Loan – HVAC Conservation Project (H33620); and

**WHEREAS**, the energy efficiency improvements to the Civic Center Complex HVAC control & air flow systems will result in reduced energy consumption and greenhouse gas emissions; and

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary work; and

**WHEREAS**, the City Administrator has determined that the services under this agreement are of a technical and temporary nature, and that the performance of this agreement shall not result in the loss of employment or salary by any person having permanent status in the competitive service; and

**WHEREAS**, Section 2.04.180 of the Oakland Municipal Code (OMC) allows the City to use the alternative fast-track project delivery method commonly referred to as “Design-Build” with or without advertising and solicitation of bids “when the circumstances surrounding the project substantiate that it is in the best interests of the city” to waive such requirements pursuant to OMC Section 2.04.050; and

**WHEREAS**, it is in the City’s best interests to waive the fixed, sealed bid and price-based award process for this project because: 1) the ARRA provides shortened timeframes for the commencement of projects in order to meet the funding goal of creating jobs and acquiring design-build proposals in a single solicitation process is faster, and 2) the design-build process allows the City to negotiate for and better balance construction and operating costs; and

**WHEREAS**, the City issued and advertised a Request For Proposals energy efficiency design and construction services to which United Comfort Solutions, Inc. responded in a manner that best complies with the City’s engineering, construction and program requirements; now, therefore, be it

**RESOLVED:** That the City Administrator, or designee, is authorized to negotiate and enter into a Design-Build agreement in an amount not to exceed six hundred ninety-five thousand dollars (\$695,000) with United Comfort Solutions, Inc. for energy efficiency improvements to the Civic Center HVAC control & air flow system; and be it

**FURTHER RESOLVED:** That pursuant to OMC Section 2.04.180 and Section 2.04.050 I, 5 and the reasons stated in the report accompanying this Resolution and above, the City Council finds that it is in the best interests of the City to use the alternative fast-track project delivery method commonly referred to as “Design-Build” and to waive the fixed, sealed bid, price-based award process for this contract, and so waives said requirements; and be it

**FURTHER RESOLVED:** That the City Administrator or designee is authorized to apply for, accept, and appropriate energy related rebates or incentive payments from programs offered by the State, PG&E or other rebate programs and place funds into the Department of Energy-EECBG Program (ARRA) Fund (2609), Environmental Services Energy Group Organization (30689), Projects C389010 and C388910; and be it

**FURTHER RESOLVED:** That the City Administrator or designee is authorized to transfer allocations between projects in Fund 2609 as necessary to achieve the optimal use and full expenditure of ARRA grant funds; and be it

**FURTHER RESOLVED:** That the City Administrator or his designee is authorized to extend, amend (except to increase compensation), and take whatever action is necessary with respect to this agreement consistent with this resolution and its basic purpose; and be it

**FURTHER RESOLVED:** That all contracts authorized hereunder shall be reviewed and approved for form and legality by the Office of the City Attorney and a final copy shall be placed on file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, JUL 20 2010, 20      


**PASSED BY THE FOLLOWING VOTE:**

AYES - BROOKS, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER - 8

NOES - 0

ABSENT - 0

ABSTENTION - 0

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