

**STATE OF GEORGIA
COUNTY OF CLAYTON**

RESOLUTION 2009-180

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF CLAYTON COUNTY, GEORGIA AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE OF TWO ENERGY SAVINGS AND CONSERVATION AGREEMENTS, ONE EACH, WITH TRANE COMFORT SOLUTIONS INC. AND WITH SIEMENS INDUSTRY, INC. FOR PURPOSES OF PROVIDING ENERGY SAVINGS AND CONSERVATION MEASURES FOR VARIOUS FACILITIES WITHIN THE COUNTY; AUTHORIZING THE NEGOTIATION EXECUTION, DELIVERY AND PERFORMANCE OF A MULTIYEAR LEASE PURCHASE AGREEMENT BETWEEN CLAYTON COUNTY, GEORGIA AND BANC OF AMERICA PUBLIC CAPITAL CORP. TO PROVIDE FOR THE FINANCING OF THE PURCHASE OF EQUIPMENT AND SERVICES AND THE LEASING OF SUCH EQUIPMENT TO THE COUNTY; AUTHORIZING THE EXECUTION, DELIVERY AND PERFORMANCE OF RELATED DOCUMENTS; AND FOR OTHER PURPOSES.

WHEREAS, in order to provide energy savings and conservation measures in Clayton, County, Georgia (the "County"), the Board of Commissioners (the "Board") desires to enter into a Performance Agreement for Comfort from Trane (the "Trane Performance Contract") by and between the County and Trane Comfort Solutions, Inc. ("Trane"), under the terms of which Trane agrees to furnish certain services to the County designed to reduce energy consumption and operational costs at certain sites throughout the County, including the acquisition and installation of certain energy savings equipment and performing specified maintenance and the County agrees to pay Trane a fixed sum for such services not to exceed \$5,600,000 (the "Trane Contract Price") and additional sums for maintenance throughout the term of the Trane Performance Contract; and

WHEREAS, in order to provide certain additional energy savings and conservation measures in the County the Board also desires to enter into a Performance Contracting Agreement (the "Siemens Performance Contract") by and between the County and Siemens Industry, Inc. ("Siemens"), under the terms of which Siemens agrees to furnish

certain services to the County designed to reduce energy consumption and operational costs at certain facilities throughout the County, including the acquisition and installation of certain energy savings equipment and performing specified maintenance an the County agrees to pay Siemens a fixed sum for such services not to exceed \$5,100,000 (the “Siemens Contract Price”) and additional sums for maintenance throughout the term of the Siemens Performance Contract; and

WHEREAS, O.C.G.A. § 36-60-13, authorizes each county and municipality in the State of Georgia to enter into multi-year lease purchase agreements for the acquisition of goods, materials, real and personal property, services, and supplies; and

WHEREAS, in order to finance the collective cost (the “Contract Payments”) of the equipment and services specified in the Trane Performance Contract and the Siemens Performance Contract (together, the “Performance Contracts”), the County desires to enter into a multi-year Master Equipment Lease/Purchase Agreement (the “Lease Agreement”) by and between the County and Banc of America Public Capital Corp. (the “Bank”) under the terms of which the Bank, as lessor, agrees to (i) provide funds to acquire the equipment specified in the Performance Contracts, (ii) to lease the equipment to the County pursuant to an annually renewable lease and (iii) to deem that upon the payment of the Final Contract Payment that the County shall have exercised its purchase option and shall own such equipment; and

WHEREAS, it is proposed that an Acquisition Fund and Account Control Agreement (the “Escrow Agreement”) be entered into among the County, the Bank and Deutsch Bank National Trust Company (the “Acquisition Fund Custodian”) pursuant to which an “acquisition fund” shall be created in an amount necessary to fund the costs specified in the Performance Contracts and pursuant to which the Bank and County shall agree to disbursements from the fund to pay for the costs associated with acquiring and installing the equipment;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF
COMMISSIONERS OF CLAYTON COUNTY, GEORGIA AND IT IS HEREBY
RESOLVED as follows:**

Section 1. Authorization of Trane Performance Contract. In order to provide energy savings and conservation measures to the County, authorizes the execution, delivery and performance of the Trane Performance Contract by the County. The Trane Performance Contract shall be in substantially the form attached hereto as Exhibit "A," subject to the approval as to form by the Chief Staff Attorney and subject to such changes, insertions or omissions as may be approved by the Chairman; and the execution of the Trane Performance Contract by the Chairman as hereby authorized shall be conclusive evidence of any such approval.

Section 2. Authorization of Siemens Performance Contract. In order to provide energy savings and conservation measures to the County, authorizes the execution, delivery and performance of the Siemens Performance Contract by the County is hereby authorized. The Siemens Performance Contract shall be in substantially the form attached hereto as Exhibit "B," subject to the approval as to form by the Chief Staff Attorney and subject to such changes, insertions or omissions as may be approved by the Chairman; and the execution of the Siemens Performance Contract by the Chairman as hereby authorized shall be conclusive evidence of any such approval.

Section 3. Authorization of Lease Agreement. The execution, delivery, and performance of the Lease Agreement by the County is hereby authorized. The Lease Agreement shall be in substantially the form attached hereto as Exhibit "C," subject to the approval as to form by the Chief Staff Attorney and subject to such changes, insertions or omissions as may be approved by the Chairman; and the execution of the Lease Agreement by the Chairman as hereby authorized shall be conclusive evidence of any such approval.

Section 4. Authorization of Escrow Agreement. In order to provide for the deposit and investment of the funds necessary to fund the costs specified in the Performance Contracts pending their disbursement the further negotiation, execution, delivery and performance of the Escrow Agreement by the County is hereby authorized. The Escrow Agreement (Acquisition Fund and Account Control Agreement) shall be in substantially the form attached hereto as Exhibit "D," subject to the approval as to form by the Chief Staff Attorney and subject to such changes, insertions or omissions as may be

approved by the Chairman; and the execution of the Escrow Agreement by the Chairman as hereby authorized shall be conclusive evidence of any such approval.

Section 5. Authorization of Maximum Principal Amount and Interest Rate Associated with Contract Payments. The combined principal component of the Contract Payments in respect of the Trane Performance Contract and the Siemens Performance Contract shall not exceed \$10,700,000. The maximum annual interest component specified in the Lease Agreement to be associated with the combined Contract Payments shall not exceed 5% per annum.

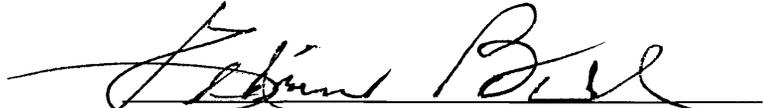
Section 6. Further Approvals. The Chairman is hereby authorized to execute any document relating to, and in furtherance of the purpose of this Resolution and otherwise to perform all acts necessary to accomplish the purpose of this Resolution.

Section 7. Repealer. All resolutions and parts of resolutions in conflict with this Resolution are hereby repealed to the extent of such conflict.

Section 8. Effective Date. This Resolution shall take effect immediately upon its adoption.

SO RESOLVED, this 17th day of November, 2009

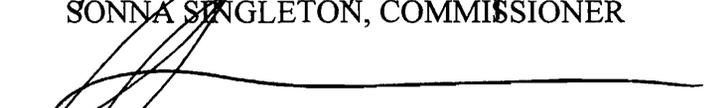
CLAYTON COUNTY BOARD OF COMMISSIONERS


ELDRIN BELL, CHAIRMAN


WOLE RALPH, VICE-CHAIRMAN


GAIL B. HAMBRICK, COMMISSIONER


SONNA SINGLETON, COMMISSIONER


MICHAEL EDMONSON, COMMISSIONER

ATTEST:


SHELBY D. HAYWOOD, CLERK