



FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2015 JUL -2 ~~AGENDA~~ **AGENDA REPORT**

**TO:** Sabrina B. Landreth  
CITY ADMINISTRATOR

**FROM:** Karen L. Boyd

**SUBJECT:** Closed Captioning Contract

**DATE:** June 22, 2015

City Administrator  
Approval

Date

7/2/15

**COUNCIL DISTRICT:** City-Wide

**RECOMMENDATION**

Staff recommends that the City Council Adopt:

A Resolution Waiving The Request For Proposals/Qualifications (“RFP/Q”) Requirement And Authorizing The City Administrator To Execute A Professional Services Contract With Teleperformance USA, Inc. For Real-Time, Off-Site Closed-Captioning Of Regular And Special Meetings Of The Oakland City Council, Council Committees And City Of Oakland Public Meeting Bodies In A Total Amount Not To Exceed Fifty Thousand Dollars (\$50,000) Per Year For The Two-Year Period From September 1, 2015 Through August 31, 2017 For A Contract Amount Of \$100,000; With Two (2) One-Year Options To Extend The Contract For An Additional Amount Of Fifty Thousand Dollars (\$50,000) Per Year, For A Grant Contract Total Amount Of \$200,000.

**OUTCOME**

Adoption of the proposed resolution will allow the City Administrator to enter into a contract that will provide for the continuation of closed captioning service for persons with disabilities, in compliance with Americans with Disabilities Act (ADA) requirements, through August 31, 2017, and provide support for this mandated service.

**BACKGROUND/LEGISLATIVE HISTORY**

Since January 2, 1996, the City has provided real-time captioning and live closed captioning cablecast of joint meetings of the Oakland Redevelopment Agency and Oakland City Council, and City Council Committees. Real-time captioning is provided during Council Committee and City Council meetings and is routinely broadcasted on the City’s government television station. The Americans with Disabilities Act (ADA) 42 U.S.C. & 12101 et seq and City of Oakland

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Administrative Instruction 123 require the City to provide reasonable accommodation to those with disabilities in order to facilitate access to City services. The City is obligated to provide this service to meet ADA requirements.

Under Title II of the ADA 42 U.S.C. & 12101 et. seq., and in accordance with City of Oakland Administrative Instruction 123, the City of Oakland must ensure that communications with people with disabilities are as effective as communications with others. The U.S. Department of Justice regulations implementing Title II of the ADA require the provision of auxiliary aids and services where necessary to ensure effective communication with people with disabilities. For individuals with hearing impairments, auxiliary aids and services include assistive listening devices, qualified interpreters, closed captioning, and computer-aided real-time captioning.

The ADA effective communications requirement applicable to the City of Oakland's cable television programming (page 35712 of the Title II regulation) references the following text:

*"A number of comments raised questions about the extent of a public entity's obligation to provide access to television programming for person's with hearing impairments. Television and videotape programs produced by public entities are covered by the ADA. Access to audio portions of such programming may be provided by closed captioning."*

The U.S. Department of Justice advises public entities to close caption audio portions of television programming unless doing so would result in fundamental alteration in the nature of the television programming or in an undue financial and administrative burden. Utilization of closed captioning in the City of Oakland allows for the broadest reach of service delivery providing for ADA access for audience members, home viewers, and web-based viewers. Real-time closed captioning continues to be an economical and efficient method to meet ADA requirements, and staff recommends continued utilization of this method.

The City of Oakland has effectively utilized off-site closed captioning services since 2003, providing for cost-effective service delivery. Real-time captioning is provided during Council Committee and City Council meetings and is routinely broadcasted on the City Government Television station – KTOP – and incorporated into the web-based streaming videos posted by the Office of the City Clerk.

### ANALYSIS

Continued utilization of off-site captioning services does not displace the employment of current City employees. Additionally, the absence of qualified captioners in the local market and employees to perform this work require contracting to meet this regulatory service requirement.

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The current contract with the current captioner, Teleperformance USA, Inc. (formerly Aegis Rapidtext, LLC), will expire August 31, 2015. Teleperformance USA, Inc. has maintained this contract continually since 2011, and has provided qualified service. Prior to execution of the current contract, the Contract Compliance Division sent sixty-four (64) invitation notifications to firms including three (3) located in Oakland. At that time, the City of Oakland received only one (1) RFP response from the existing service provider, Teleperformance USA Inc. (formerly Aegis Rapid Text, Inc.)

On February 24, 2015, the Contract Compliance Division performed an availability analysis to determine the number of qualified local service providers and determined there are no local service providers available for competitive bids.

OMC Title 2, Chapter 2.04, Article I, Section 2.04.010 provides for a Local and Small Local Business Enterprise (L/SLBE) Program requirement, unless it is waived by the City Administrator or the City Council. Oakland Municipal Code (OMC) Title 2, Chapter 2, Article I, Section 2.04.051.A requires a competitive Request for Proposal/Qualification (RFP/Q) selection process for the procurement of professional services in excess of \$25,000. OMC Title 2, Chapter 2, Article I, Section 2.04.051.B permits the Council to waive the competitive RFP/Q competitive selection requirement upon a finding and determination that it is in the best interest of the City to do so.

Based on the lack of qualified service providers, the cost-effective means of service delivery, and the established service protocols, it is in the City's best interest to waive the small local business and competitive bid requirements for this service. Staff recommends the execution of a new contract with Teleperformance USA, Inc. and waiver of small local business and competitive bid requirements to ensure the City's ability to comply with ADA requirements.

### **PUBLIC OUTREACH/INTEREST**

Providing closed captioning services is a requirement under Federal and local regulations. Delivery of this service is obligatory to serve the needs of members of the public with hearing disabilities.

### **COORDINATION**

This recommendation and the technical needs were reviewed by the Office of the City Clerk to coordinate delivery of captioning services with the City's legislative systems for citizens reviewing streaming videos online.

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**COST SUMMARY/IMPLICATIONS**

This should include:

1. AMOUNT OF RECOMMENDATION/COST OF PROJECT: \$50,000
2. SOURCE OF FUNDING: 1760
3. FISCAL IMPACT: \$50,000

**SUSTAINABLE OPPORTUNITIES**

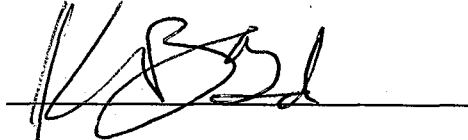
*Economic:* There are no sustainable economic opportunities that apply to the contract.

*Environmental:* There are no sustainable environmental opportunities that apply to the contract.

*Social Equity:* There are no sustainable social equity opportunities that apply to the contract.

For questions regarding this report, please contact Michael Munson, Cable Operations Technician, (510) 238-6565.

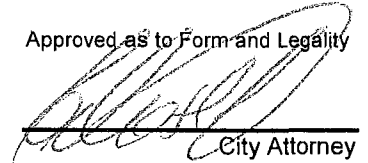
Respectfully submitted,



KAREN L. BOYD  
Assistant to the City Administrator

Prepared by:  
Michael Munson  
Cable Operations Technician  
KTOP TV-10

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City Attorney

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## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

**RESOLUTION WAIVING THE REQUEST FOR PROPOSALS/QUALIFICATIONS ("RFP/Q") REQUIREMENT AND AUTHORIZING THE CITY ADMINISTRATOR TO EXECUTE A PROFESSIONAL SERVICES CONTRACT WITH TELE PERFORMANCE USA, INC. FOR REAL-TIME, OFF-SITE CLOSED-CAPTIONING OF REGULAR AND SPECIAL MEETINGS OF THE OAKLAND CITY COUNCIL, COUNCIL COMMITTEES AND CITY OF OAKLAND PUBLIC MEETING BODIES IN A TOTAL AMOUNT NOT TO EXCEED FIFTY THOUSAND DOLLARS (\$50,000) PER YEAR FOR THE TWO-YEAR PERIOD FROM SEPTEMBER 1, 2015 THROUGH AUGUST 31, 2018 FOR A CONTRACT AMOUNT OF \$100,000; WITH TWO (2) ONE-YEAR OPTIONS TO EXTEND THE CONTRACT FOR AN ADDITIONAL AMOUNT OF FIFTY THOUSAND DOLLARS (\$50,000) PER YEAR, FOR A GRANT CONTRACT TOTAL AMOUNT OF \$200,000**

**WHEREAS**, Staff recommends that the City of Oakland renew an agreement with Teleperformance USA, Inc. TPUSA (formerly Aegis Rapid Text, Inc.) to provide real-time, live closed-captioning of regular and special meetings of the Oakland City Council, Council Committees, and City of Oakland public meeting bodies in a contract amount of One Hundred Thousand Dollars (\$50,000 per year) for the period from September 1, 2015 through August 31, 2018 and authorizing two (2) one-year options to extend the contract for an additional amount not to exceed fifty thousand dollars (\$50,000) per year, for a grand total contract amount of \$200,000, and;

**WHEREAS**, the services to be provided under the contract are required by the Americans with Disability act (ADA) 42 U.S.C. & 12101 et seq and City of Oakland Administrative instruction No. 123, the city's Equal Access Policy, and;

**WHEREAS**, the City lacks the equipment and qualified personnel to perform the necessary work, and the performance of this contract is in the public interest because of economy or better performance; and

**WHEREAS**, the City Council finds and determines that the services that will be needed are of a professional, scientific or technical and temporary nature and the contract shall not result in the loss of salary or employment by any person having permanent status in the competitive service, and;

**WHEREAS**, the service obligation was transferred from the Office of the City Clerk in 2011 along with the budgeted allocated funding through fiscal year 2012 – 2013 pursuant to Section 105 of the City Charter and the service obligation has not been funded since fiscal year 2012-13, and;

**WHEREAS**, the transfer of this obligations requires the additional allocation of \$50,000 from 1010 annually, support this mandated service to 1760, and;

**WHEREAS**, the current contract expires with the current captioner Teleperformance USA, Inc. (formerly Aegis Rapidtext, LLC will expire August 31, 2015. Prior to execution of the current contract, the department of Contract Compliance sent sixty-four (64) invitation notifications to firms including three (3) located in Oakland. At that time, the City of Oakland received only one (1) RFP response from the existing service provider Teleperformance USA Inc. (formerly Aegis Rapid Text, Inc.); and

**WHEREAS**, on February 24, 2015, the department of contract compliance performed an availability analysis to determine the number of qualified local service providers and determined there are no local service providers available for competitive bids; and

**WHEREAS**, OMC Title 2, Chapter, Article I, Section 2.04.010 provides for a Local and Small Local Business Enterprise (L/SLBE) Program requirement, unless it is waived by the City Administrator or the Council; and

**WHEREAS**, Oakland Municipal Code (OMC) Title 2, Chapter 2, Article I, Section 2.04.051.A requires a competitive Request for Proposal/Qualification (RFP/Q) selection process for the procurement of professional services in excess of \$25,000.00; and

**WHEREAS**, OMC Title 2, Chapter 2, Article I, Section 2.04.051.B permits the Council to waive the competitive RFP/Q competitive selection requirement upon a finding and determination that it is in the best interests of the City to do so; and

**WHEREAS**, based on the lack of qualified service providers, the cost effective means of service delivery, and the established service protocols, it is in the City's best interests to waive the small local business and competitive bid requirements for this service; and

**WHEREAS**, Staff recommends the execution of a new contract with Teleperformance USA, Inc. and waiver of small local business and RFP/Q requirements to ensure the City's ability to comply with ADA requirements; and

**WHEREAS**, The City of Oakland desires that TPUSA provide the required services to the City of Oakland during the City Council, Committee/ Council meetings and all special meetings of the City Council; and

**WHEREAS**, the current contract expires with the current captioner Teleperformance USA, Inc. (formerly Aegis Rapidtext, LLC will expire August 31, 2015; now be it:

**RESOLVED:** That the City Administrator is hereby authorized to execute a contract with

Teleperformance USA, Inc., to provide real-time, live, off-site closed-captioning services of regularly scheduled and special meetings of the Oakland City Council, City Council Committees, and other City of Oakland governing body meetings in a contract amount one hundred thousand dollars (\$50,000 per year) for the period from September 1, 2015 through August 31, 2018; and be it:

**FURTHER RESOLVED:** That services provided by Teleperformance USA, Inc., are temporary and of a professional, scientific, or technical nature, and the contract will not result in the loss of employment or salary by any person; and be it

**FURTHER RESOLVED:** That the City Administrator is hereby authorized to exercise two one-year options to extend the agreement with Teleperformance USA, Inc., in an additional total amount not to exceed fifty thousand dollars (\$50,000) per year for the period from September 1, 2018 through August 31, 2019, for a grand contract total amount of \$200,000 ; and be it:

**FURTHER RESOLVED:** That pursuant to Oakland Municipal Code Section 2.04.051.B the Council hereby finds and determines that it is in the best interests of the City to waive the RFP/Q competitive selection and L/SLBE requirements because of the reasons set forth herein and in the Report that accompanies this Resolution; and be it

**FURTHER RESOLVED:** the transfer of this obligations requires the additional allocation of \$50,000 to support this mandated service to 1760, Section 105. Transfer of Records and Property. The transfer of any function from one department to another by this Charter or by any lawful ordinance or administrative authority also authorizes the corresponding transfer of all records, property, and equipment necessary to such function; and be it:

**FURTHER RESOLVED:** That the agreement or extension authorized hereunder are subject to City Attorney approval for form and legality and shall be placed in the file in the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_  
**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, CAMPBELL-WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, &  
MCELHANEY-GIBSON

NOES –

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_

LaTonda Simmons  
City Clerk and Clerk of the Council