



CITY OF OAKLAND

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2019 JAN 10 PM 3: 34

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Jamie Turbak
Interim Director of Library
Services

SUBJECT: OPL Resolution for Purchase
Authorization and Waiver

DATE: December 12, 2018

City Administrator Approval

Date:

1/10/19

RECOMMENDATION

Staff Recommends That The City Council Approve A Resolution Rescinding Resolution No. 68254 C.M.S. And Authorizing The City Administrator To Purchase Oakland Public Library Materials And Specialized Services Necessary To Facilitate and Support Staff In Lending Materials To Library Patrons, Such As Books, E-books, DVDs, Newspapers, Periodicals, Database Subscriptions, Tools, And Toys In An Amount Not To Exceed The Budget Available In Designated Library Funds For Fiscal Years 2019 Through 2023 And Waiving The Competitive Procurement Process For Such Purchases.

EXECUTIVE SUMMARY

This resolution authorizes the City Administrator to purchase library materials and specialized services necessary to facilitate and support staff in lending materials to Oakland Public Library ("OPL" or "Library") patrons for a period of five years through 2023. This resolution also waives the competitive processes for such purchases. Library materials for lending include but are not limited to books, newspapers, magazines, DVDs, CDs, streaming movies, downloadable music, wifi hotspots, tools, toys, databases, e-books, audiobooks, museum passes, government documents, microfilm, maps, manuscripts, scores, digitized photographs, video games, musical instruments, word processing and educational software. Specialized services necessary to lend materials to OPL patrons include but are not limited to database subscriptions, e-book software platforms, Internet connectivity for Wi-Fi hotspots, software licenses, bibliographic records in multiple languages, annual maintenance for digitization software, bindery for periodicals, and protective packaging for books and DVDs.

Due to the complexities and volume of purchasing such materials and specialized services necessary to facilitate and support staff in lending materials to Library patrons, the calling of formal bids, conducting a request for proposal/qualifications ("RFP/Q") process, and/or conducting a multi-step solicitation process is impractical or impossible in order to provide library materials to patrons in a timely and efficient manner.

Item: _____
Life Enrichment Committee
January 15, 2019

BACKGROUND / LEGISLATIVE HISTORY

Thirty-two years ago, in 1986, Oakland City Council determined in Resolution No. 63882 C.M.S. that, due to complexities and circumstances of purchasing library materials for Oakland Public Library it was not in the best interest of the City to require formal bids for items such as books, magazines, newspaper subscriptions and other publications, and authorized the City Purchasing Manager to acquire library materials as may be required, in an amount not to exceed the budget available for such materials.

On July 30, 1991, Council passed Resolution No. 68254 C.M.S. amending Resolution No. 63882 C.M.S. to extend this authorization. For the last thirty-two years, Oakland Public Library has acquired library materials for public use under these resolutions.

ANALYSIS AND POLICY ALTERNATIVES

In order to provide timely and useful materials and resources to Library patrons and because it is in the best interest of the City to do so, staff recommends that City Council authorize the City Administrator to purchase Oakland Public Library materials and specialized services necessary to facilitate and support staff in lending materials to Library patrons in an amount not to exceed the budget available in designated Library funds for fiscal years 2019 through 2023 and waive the competitive procurement process, per OMC sections 2.04.050.I, 2.04.051.B and 2.04.042.D, for such purchases.

Oakland Public Library patrons borrow over 2.3 million items each year and the Library owns over 1 million discrete physical items, such as books, magazines, DVDs, tools, and provides electronic access to 38 databases of digitized articles, manuscripts, photographs and educational, interactive software to learn to read, speak another language, practice a citizenship test, fix a car, plan a career, and perform genealogical research to name a few. OPL lent over 140,000 electronic versions of e-books, e-audiobooks, e-magazines, streaming movies and downloadable music in fiscal year 2016-17. Books and other materials are purchased in multiple languages and 236,000 non-English items were lent last year.

To meet the wide variety of needs and expectations of Oakland Public Library patrons, it is essential to provide the large quantity and variety of materials and resources available for Library patrons to borrow in a timely and efficient manner.

In contrast to generic, bulk purchases like office supplies, library books and other materials are distinct and each title is a separate purchase. In addition, many materials are unique and not available to purchase on the open market like other general commodities, for instance manuscripts, self-published books, archival photographs or government documents that can only be acquired from a single supplier or the creator of the work.

As noted in 1986 and still true today, the timing of a particular book or non-book item is often essential to its value to the public, for example, a best seller about a breaking news story or a just released movie is requested and popular immediately and for a short window of time. Versions of titles are purchased in multiple formats to provide accessibility to different constituencies, such as those who speak languages other than English or patrons with disabilities. For instance, Library patrons borrow books in 17 non-English languages and most of these titles can only be acquired from a sole supplier or from the county of creation. "Large Type" books, audiobooks or descriptive DVDs serve patrons with vision challenges, for instance, and are available from a limited number of publishers.

Specialized services necessary to facilitate and support staff in lending materials to Oakland Library patrons are intertwined and can't be separated from the provision of the physical or electronic versions of materials. For instance, in order to provide e-books, the Library must purchase the software platform on which the e-books reside. Internet connectivity service is necessary to lend activated Wi-Fi hotspots. Books and DVDs are purchased with protective mylar or packaging that allows them to withstand heavy public use. Bibliographic records translated into other languages allow non-English speaking patrons to search the catalog and magazines and music scores are bound for storage and archival preservation.

To provide timely, useful and accessible materials to lend to Library patrons and to make electronic resources available, it is in the best interest of the City to waive the request for proposal/qualifications ("RFP/Q") requirements and the multi-step solicitation process for these types of services and technology.

Because of the large quantities of materials and resources purchased, the Library currently receives deep discounts from book and other vendors, often as much as forty percent off the retail price. A competitive procurement process, if it could be done at all, offers no fiscal advantage to the thousands of distinct titles or unique acquisitions purchased each month and, in fact, would cause significant delay and expense of City staff time and reduce the value and usefulness of materials available to lend to Library patrons.

The Oakland Municipal Code ("OMC") sections 2.04.040 and 2.04.050 require that the City Administrator conduct a competitive bid process for purchases of supplies, however, OMC section 2.04.050.I. provides for exceptions to the competitive bidding upon a finding by the City Council that the requirement is impracticable, unavailing or impossible (OMC section 2.04.050.I.2) or in cases when specifically authorized by the City Council after a finding and determination that it is in the best interest of the City (OMC section 2.04.050.I.5). OMC section 2.04.051.B provides that the City Council may waive REP/Q requirements for contracts involving professional or specialized services upon a finding that it is in the best interest of the City. OMC section 2.04.042.D provides that the Council may waive the requirements for a multi-step solicitation process for the acquisition of "Computerized or Information Technology (IT) Systems", defined as software, computer hardware, and/or equipment and/or technical support and maintenance services. Based on the reasons stated in this report, staff recommends waiving the RFP/Q requirements, the competitive bidding requirements, and the multi-step

solicitation process for the purchase of library materials and specialized services necessary to facilitate and support staff in lending materials to Library patrons.

FISCAL IMPACT

The Library's annual budget for materials to lend to Library patrons is approximately \$2 million in Fund 2241 (Measure Q) and \$2.5 million in Fund 2243 (Measure D) for a total of \$4.5 million dollars. In addition, the Library occasionally receives grants or private donations for materials that are reflected in Fund 7540 (grants and donations). The proposed resolution authorizes the City Administrator to purchase Oakland Public Library materials and specialized services necessary to facilitate and support staff in lending materials to Library patrons in an amount not to exceed the budget available in designated Library funds for fiscal years 2019 through 2023. Waiving the competitive procurement process for such purchases ensures that Library patrons will benefit from these annual allocations in a timely and accessible manner and that funds will be used for the purchases and services themselves and not spent on overhead costs of staff time attempting to get bids on individual book titles or engaged in vain procurement attempts.

PUBLIC OUTREACH / INTEREST

No outreach was deemed necessary for this report beyond the standard City Council agenda noticing procedures.

COORDINATION

In preparation of this staff report, staff coordinated with the Departments of Contracts & Compliance, Budget Bureau and the Office of the City Attorney.

SUSTAINABLE OPPORTUNITIES

Economic: No specific, additional economic opportunities have been identified.

Environmental: Borrowing Oakland Public Library materials reduces waste because items are shared and negates the need for individuals to purchase or own items, such as books, newspapers, magazines, DVDs, tools, musical instruments, public computers, toys, games, printers, etc. In addition, e-materials borrowed by Library patrons, such as e-books, e-magazines, e-audiobooks, streaming movies, downloadable music, do not require the depletion of natural resources to produce and consume.

Social Equity: The materials and services of the Oakland Public Library are available at no charge to all residents of all ages and races to acquire knowledge and develop skills they need towards equity in educational, employment, housing, entertainment and engagement opportunities.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that the City Council approve a resolution rescinding Resolution No. 68254 C.M.S. and authorizing the City Administrator to purchase Oakland Public Library materials and specialized services necessary to facilitate and support staff in lending materials to Library patrons, such as books, e-books, DVDs, newspapers, periodicals, database subscriptions, tools, and toys in an amount not to exceed the budget available in designated Library funds for fiscal years 2019 through 2023 and waiving the competitive procurement process for such purchases.

For questions regarding this report, please contact Jamie Turbak, Interim Library Director, at 510-238-6610.

Respectfully submitted,


Jamie Turbak
Interim Director of Library Services

FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL


City Attorney

2019 JAN 10 PM 3: ~~RE~~ RESOLUTION No. _____ C.M.S.

RESOLUTION RESCINDING RESOLUTION NO. 68254 C.M.S AND AUTHORIZING THE CITY ADMINISTRATOR TO PURCHASE OAKLAND PUBLIC LIBRARY MATERIALS AND SPECIALIZED SERVICES NECESSARY TO FACILITATE AND SUPPORT STAFF IN LENDING MATERIALS TO LIBRARY PATRONS, SUCH AS BOOKS, E-BOOKS, DVDS, NEWSPAPERS, PERIODICALS, DATABASE SUBSCRIPTIONS, TOOLS, AND TOYS IN AN AMOUNT NOT TO EXCEED THE BUDGET AVAILABLE IN DESIGNATED LIBRARY FUNDS, FOR FISCAL YEARS 2019 THROUGH 2023 AND WAIVING THE COMPETITIVE PROCUREMENT PROCESS FOR SUCH PURCHASES

WHEREAS, in 1986 and again in 1991, the Oakland City Council determined that due to the complexities and circumstances of purchasing library materials for the Oakland Public Library, the calling of formal bids for said materials is not feasible and would serve no useful purpose; and

WHEREAS, Pursuant to Resolution No. 63882 C.M.S. passed June 19, 1986 and Resolution No. 68254 C.M.S. passed on July 30, 1991 the City Council authorized the purchasing manager to acquire books, magazines, newspaper subscriptions, other library materials, video programming and other cable programming materials through open market purchases for the Oakland Public Library, as may be required, in an amount not to exceed the budget available for the material; and

WHEREAS, Oakland Municipal Code (“OMC”) sections 2.04.040 and 2.04.050 require that the City Administrator conduct a competitive bid process for purchases of supplies, and in accordance with OMC section 2.04.050.I exceptions to competitive bidding are allowed upon a finding by the City Council that calling for bids on a competitive basis is impracticable, unavailing or impossible, or that it is in the best interests of the City; and

WHEREAS, OMC sections 2.04.040 and 2.04.051.A provide that the City Administrator shall conduct a request for proposal/qualifications (“RFP/Q”) process to award contracts involving professional or specialized services, and OMC section 2.04.051.B provides that the City Council may waive said RFP/Q requirements for contracts upon a finding that it is in the best interest of the City; and

WHEREAS, OMC section 2.04.042 provides that the City Administrator shall conduct a multiple-step solicitation process for the acquisition of any Computerized or Informational Technology system, and OMC section 2.04.042.D provides that the Council may waive the requirements for the multiple-step solicitation process upon a recommendation by the City Administrator and a finding and determination by the City Council that it is in the best interest of the City to waive the process; and

WHEREAS, the City Administrator has determined that it is not feasible to conduct a competitive bid process for the purchase of library materials and specialized services necessary to lend materials to Oakland Public Library patrons for the following reasons: (1) there are no dealers who can supply all of the distinct books, magazine and newspaper subscriptions, and non-book library materials to be purchased, (2) some unique books, magazine and newspaper subscriptions, and non-book items are available through only one supplier or only through the publisher, and (3) the timing of the purchase of a particular book, magazine or newspaper subscription, or non-book item is often essential to its value to the public and the delay attendant to the calling of bids would frequently prove detrimental to said value; and

WHEREAS, the purchase of each book title, magazine and newspaper subscription, and non-book library item is distinct and separate and would entail calling for bids for each and every such purchase; and

WHEREAS, thousands of distinct and separate items to lend to library patrons are purchased each month; and

WHEREAS, unique items, such as manuscripts, photographs and archival documents, can only be acquired from one supplier; and

WHEREAS, non-English books can only be acquired from limited, specialized dealers or purchased in the country of origin; and

WHEREAS, ADA accessible software or modified versions of books and DVDs are necessary to provide equitable and accessible service to library patrons with disabilities; and

WHEREAS, the Oakland Public Library provides a variety of materials to lend to library patrons, such as books, newspapers, magazines, DVDs, CDs, streaming movies, downloadable music, wifi hotspots, tools, toys, databases, e-books, audiobooks, museum passes, government documents, microfilm, maps, manuscripts, scores, digitized photographs, video games, musical instruments, and interactive educational software; and

WHEREAS, specialized services necessary to facilitate and support City staff's ability to lend materials, such as but not limited to database subscriptions, e-book software platforms, Internet connectivity for wifi hotspots, bibliographic records in multiple languages, annual maintenance for digitization software, bindery for periodicals, protective packaging for books and DVDs, are necessary to provide materials to library patrons; and

WHEREAS, Library staff do not provide these specialized services and the Library is required to enter into professional service agreements for these specialized services; and

WHEREAS, to lend current library materials, such as best sellers and breaking news, requires immediate acquisition to meet timely, voluminous and popular demand; and

WHEREAS, Oakland Public Library already receives deep and competitive discounts for bulk orders for materials and specialized services associated with lending to library patrons; and

WHEREAS, the City Administrator seeks authority to purchase materials and specialized services necessary to facilitate and support City staff's ability to lend materials to OPL patrons, in an amount not to exceed the amount in designated library funds for a period through June 30, 2023 without returning to Council; and

WHEREAS, for the reasons stated above the City Administrator recommends waiving the competitive bidding requirements, the RFP/P requirements, and the multiple-step solicitation process for acquisition and purchase of library materials and services associated with lending to library patrons; and

WHEREAS, the City Administrator has determined that the type of services agreement referenced in this resolution are of a professional and temporary nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive civil service; now therefore be it

RESOLVED: That the City Administrator is hereby authorized to purchase Oakland Public Library materials and specialized services necessary to facilitate and support City staff's ability to lend materials to Oakland Public Library patrons in an amount not to exceed the budget available in designated library funds through June 30, 2023; and be it

FURTHER RESOLVED: That pursuant to OMC sections 2.04.050.I.2 and 2.04.050.I.5, and based on the reasons stated above and in the City Administrator's report accompanying this item, the City Council hereby finds that calling for bids on a competitive basis for the aforementioned purchases is impracticable, unavailing or impossible, and that an exception to the competitive bidding requirement is in the best interest of the City, and so waives the competitive bidding requirement for such purchases; and be it

FURTHER RESOLVED: That pursuant to OMC Sections 2.04.051.B, and based on the reasons stated above and in the City Administrator's report accompanying this item the City Council hereby finds that waiving the RFP/Q requirements for the aforementioned services related to lending materials to library patrons is in the best interest of the City and so waives the requirements; and be it

FURTHER RESOLVED: That pursuant to OMC sections 2.04.042.D and based on the reasons stated above and in the City Administrator's report accompanying this item the City Council hereby finds that waiving the multiple-step solicitation process for the acquisition of computerized or information technology systems for use by OPL patrons is in the best interest of the City and so waives the requirements; and be it

FURTHER RESOLVED: That based on information provided by the City Administrator, the Council finds that the professional service agreements referenced in this resolution are of a professional and temporary nature and shall not result in the loss of employment or salary by any person having permanent status in the competitive civil service.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES – FORTUNATO BAS, GALLO, GIBSON MCELHANEY, KALB, REID, TAYLOR, THAO AND PRESIDENT KAPLAN

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council of the
City of Oakland, California