


CITY ATTORNEY'S OFFICE

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION 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 JULY 1, 2023 THROUGH JUNE 30, 2028, AND WAIVING THE COMPETITIVE PROCUREMENT PROCESS FOR SUCH PURCHASES

WHEREAS, in 1986, 1991 and again in 2019, 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, as amended by Resolution No. 64204 C.M.S., passed November 18, 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, pursuant to Resolution No. 87498 C.M.S. passed January 10, 2019, the City Council authorized the City Administrator to purchase Oakland Public Library materials and specialized services necessary to facilitate and support City staff's ability to lend library materials in an amount not to exceed the budget available for library materials through June 30, 2023, and waived the competitive procurement processes for such purchases; 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

services, 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

WHEREAS, 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 interests 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 interests of the City to waive the process; and

WHEREAS, the City Administrator has determined that it is not feasible to conduct a competitive bid, request for proposal, and/or multiple-step solicitation 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, Wi-Fi 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 Wi-Fi 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 Oakland Public Library is required to enter into professional service agreements for these specialized services; and

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

WHEREAS, the 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 patrons, in an amount not to exceed the amount in designated library funds for a period of July 1, 2023 through June 30, 2028 without returning to Council; and

WHEREAS, for the reasons stated above, the City Administrator recommends waiving the competitive bidding requirements, the RFP/Q 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 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; 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 from July 1, 2023 through June 30, 2028; 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 interests of the City, and so waives the competitive bidding requirement for such purchases; and be it

FURTHER RESOLVED: That pursuant to OMC section 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 interests of the City and so waives the requirements; and be it

FURTHER RESOLVED: That pursuant to OMC section 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 Oakland Public Library patrons is in the best interests 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 - FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

ASHA REED

City Clerk and Clerk of the Council of the
City of Oakland, California

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