



AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Sean C. Whent

SUBJECT: A Report Regarding the Contract
Extension of Police
Performance Solutions, LLC for Police
Monitoring Services

DATE: November 19, 2013

City Administrator
Approval

Date

11-19-13

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Staff Recommends that Council approve a report and resolution authorizing the City Administrator to: 1) waive the advertising, competitive bid and request for proposals/qualifications (RFP/RFQ) requirements for awarding professional services contracts; and 2) extend the professional services agreement with Police Performance Solutions, LLC, for monitoring and technical assistance services in the case of Allen v. City Of Oakland, et al., USDC No. C00-4599 TEH (JL) for one year for the period from January 21, 2014 to January 20, 2015, in the amount of nine hundred ten thousand dollars (\$910,000).

REASON FOR URGENCY

The contract with Police Performance Solutions, LLC expires on January 20, 2014 and the Oakland Police Department (OPD) requires an additional year of monitoring under the Negotiated Settlement Agreement (NSA). Therefore, the existing contract must be extended by one year. A delay in the execution of the contract amendment will delay compliance.

OUTCOME

The City of Oakland (City) will be able to continue the independent monitoring services required in this case without delay or a break in the services. The City's ability to achieve compliance with the OPD institutional reforms by the end of 2014 will be increased.

BACKGROUND/LEGISLATIVE HISTORY

On January 22, 2003, the City entered into a five-year negotiated settlement agreement to resolve allegations of police misconduct raised in the civil case of *Delphine Allen, et. al, v. City*

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of Oakland, et al. The City entered into the NSA with the intent of promoting sound police practices, police integrity and professionalism within OPD. On March 19, 2007, the Court extended the NSA for two years, and on November 24, 2009, the Court allowed for the termination of the NSA and the adoption of a narrower memorandum of understanding (MOU) from 2010 to 2012, under which the City was credited for the compliance achieved. In 2012, the MOU was terminated and a narrower 2-year Amended MOU (AMOU) was extended and approved by the Court.

The City is required and wishes to continue to work with an Independent Monitor, who will oversee the City's compliance work and report on it to the Court. In anticipation of the contract expiration of the first Independent Monitoring Team (IMT) in January 2010, OPD conducted an RFQ process to identify professional police monitors (Council Resolution No. 82448). OPD's working group conducted meetings to rank candidates, and OPD staff met with the Plaintiff's Counsel to discuss the candidates. After a thorough evaluation process, OPD and Plaintiff's Counsel selected Police Performance Solutions, LLC, as the contractor. The contract with Police Performance Solutions, LLC, was extended for an additional two years on July 7, 2011 (Council Resolution No. 83380).

OPD is still working to achieve substantial compliance with the police reforms and needs one more year to be in full compliance.

ANALYSIS

Approval of this resolution will authorize the City to extend the contract with Police Performance Solutions, LLC, beginning January 21, 2014 through January 20, 2015, in an amount not to exceed \$910,000 to continue to perform independent monitoring services and technical assistance. The Parties have agreed and the Court has required that the City retain the services of an independent team to continue to monitor OPD's progress in achieving compliance with the goals and objectives of the NSA under the AMOU. Since OPD needs more time to achieve substantial compliance with the AMOU, Staff recommends that the City retain the existing monitoring team, Police Performance Solutions, LLC, the contractor previously authorized by the Council, to perform the services of the independent monitor. Police Performance Solutions, LLC, will continue to provide oversight on OPD's efforts to comply with the AMOU, audit OPD's implementation of the reforms, and provide technical assistance as needed by OPD to reach substantial compliance.

Oakland Municipal Code Section 2.04.051.B authorizes the City Council to dispense with the City's standard request for proposal process for award of professional services contracts upon a finding that it is in the City's best interests to do so, which is the case here considering that the City's initial RFQ process was thorough and appropriate for the nature of the services required. It serves the City's interests to continue the monitoring services of the existing monitoring team to avoid the delays that would be caused by the selection of a new monitoring team and the time it

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would take for new monitors to familiarize themselves with the compliance work and process required. Changing monitoring teams would hamper the City's efforts to meet compliance requirements.

PUBLIC OUTREACH/INTEREST

Through the allocation of significant resources and the commitment by OPD staff, the reforms outlined in the NSA are being implemented, and have already become part of OPD's policies and training. The NSA reforms are a critical component of improved community-police relations, with an emphasis on sound police practices, police integrity, and professionalism. OPD has made significant progress during the two-year extension of the MOU, but needs more time to demonstrate its ability to sustain compliance. An independent monitor is an essential element to ensuring OPD's achievement of substantial compliance with the MOU requirements.

COORDINATION

The Office of Contracts and Compliance, the City Attorney's Office, and the Budget Office were consulted in preparation of this report.

COST SUMMARY/IMPLICATIONS

AMOUNT OF RECOMMENDATION/COST OF PROJECT: \$910,000.

SOURCE OF FUNDING:

Funds for this contract amendment shall be drawn from the Miscellaneous Grant Fund (2999), Miscellaneous Contract Services Account (54919), Project to Be Determined, and Agency-wide Administration Program (PS01).

SUSTAINABLE OPPORTUNITIES

Economic: The NSA provides for the implementation of reforms within OPD. These reforms reflect the best practices and procedures for police management in the areas of supervision, use of force, professionalism, and accountability mechanisms. Over time, having a highly professional police organization that closely supervises and monitors its activities, and holds persons accountable for violations of the law and serious misconduct increases public confidence, improves public relations with the community, and reduces liability and risk for the City.

Environmental: There are no environmental opportunities.

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Deanna J. Santana, City Administrator

Subject: A Report Regarding The Contract Extension of Police Performance Solutions, LLC, for Police Monitoring Services

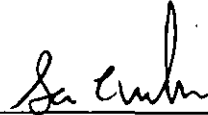
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Social Equity: The police reforms the City is instituting will enhance OPD's ability to provide highly professional services in ensuring the public safety of the residents of Oakland.

For questions regarding this report, please contact Kristin Burgess-Medeiros, Police Auditor, at (510) 238-7097.

Respectfully submitted,



SEAN C. WHENT
Interim Chief of Police,
Oakland Police Department

Prepared by:
Kristin Burgess-Medeiros, Police Auditor
Office of Inspector General

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FILED
OFFICE OF THE CITY CLERK
OAKLAND
2013 NOV 25 AM 9:46

OAKLAND CITY COUNCIL
RESOLUTION No. _____ C.M.S.

Approved as to Form and Legality

DRAFT

City Attorney

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO: 1) WAIVE THE ADVERTISING, COMPETITIVE BID AND REQUEST FOR PROPOSALS/QUALIFICATIONS (RFP/RFQ) REQUIREMENTS FOR AWARDING PROFESSIONAL SERVICES CONTRACTS; AND 2) EXTEND THE PROFESSIONAL SERVICES AGREEMENT WITH POLICE PERFORMANCE SOLUTIONS, LLC, FOR MONITORING AND TECHNICAL ASSISTANCE SERVICES IN THE CASE OF ALLEN V. CITY OF OAKLAND, ET AL., USDC NO. C00-4599 TEH (JL) FOR ONE YEAR FOR THE PERIOD FROM JANUARY 21, 2014 TO JANUARY 20, 2015, IN THE AMOUNT OF NINE HUNDRED TEN THOUSAND DOLLARS (\$910,000).

WHEREAS, in January 2003, the City Council approved settlement of *Allen vs. City of Oakland, et al.*, which resolved a multitude of claims of constitutional violations by a number of police officers and the City's failure to prevent those actions; and

WHEREAS, the City Council agreed to the Negotiated Settlement Agreement (NSA), which required the City to reform the institutional practices of the Oakland Police Department (OPD) relative to training, policies, supervision, investigations, enforcement, and personnel accountability under the oversight of an independent monitoring team; and

WHEREAS, with the Court's approval, the NSA was terminated by the end of 2009 and was superseded by a 2-year Memorandum of Understanding in 2010 and by a 2-year Amended Memorandum of Understanding in 2012; and the City is required to continue to implement the remaining institutional police reforms under the oversight of an Independent Monitoring Team; and

WHEREAS, the City and OPD continue to make progress in achieving compliance with the institutional police reforms required under the AMOU and relevant court orders; however, the City and OPD believe that they need more time to achieve full compliance; and

WHEREAS, the current two-year contract with Police Performance Solutions, LLC, ends in January 2014, and the City desires to extend this contract for one more year from January 2014 to January 2015 in order to continue receiving monitoring and technical services required for compliance; and

WHEREAS, sufficient funds have been budgeted in the FY 2013-2015 budget in: Miscellaneous Grant Fund (2999), Miscellaneous Contract Services Account (54919), Project to Be Determined, and Agency-wide Administration Program (PS01); and

WHEREAS, Oakland Municipal Code Section 2.04.051.B authorizes the City Council to dispense with the City's standard request for proposal process for award of professional services contracts upon a finding that it is in the City's best interests to do so, which is the case here considering that the City's initial RFP/RFQ process was thorough and appropriate for the nature of the services required; and

WHEREAS, the City's interests are served by continuing the monitoring services of Police Performance Solutions, LLC, in order to avoid the delays involved in selecting a new monitoring team, negotiating a new contract, and working with a new monitor who would be unfamiliar with the requirements of this case; and

WHEREAS, the City lacks qualified personnel to perform the necessary work, the Court requires the services of an independent monitor to oversee City compliance, and the City Council finds and determines that the services authorized hereunder are of a professional, scientific or technical and temporary nature, and shall not result in the loss of employment or salary by any person having permanent status in the competitive services; now therefore be it

RESOLVED: That the City Administrator is authorized to extend the contract with Police Performance Solutions, LLC, for one additional year, from January 21, 2014 to January 20, 2015, to provide monitoring and technical services to the City and the Oakland Police Department, consistent with the scope of work, terms, and conditions of the current contract with the City; and be it

FURTHER RESOLVED: That the City Council finds and determines, for the reasons stated above and the City Administrator's report accompanying this Resolution, and pursuant to Oakland Municipal Code, Section 2.04.051(B), that it is in the best interests of the City to dispense with the City's customary RFP/RFQ process for the Independent Monitor contract, and so waives these requirements; and be it

FURTHER RESOLVED: That sufficient funds have been budgeted in the proposed FY 2013-2015 budget in the Miscellaneous Grant Fund (2999), Miscellaneous Contract Services Account (54919), Project to Be Determined, and Agency-wide Administration Program (PS01); and be it

FURTHER RESOLVED: That the City Administrator or her designee is authorized to carry out any financial actions necessary to fulfill the intent of this Resolution and accompanying Report, including completing all required negotiations, certifications, assurances, and documentation required to accept, modify, extend and/or amend this contract for services, except for any increase in the contract amount, without returning to the City Council; and be it

FURTHER RESOLVED: That the City Attorney shall review and approve this agreement as to form and legality and a copy of the fully executed agreement shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES-

ABSENT-

ABSTENTION-

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