



City Attorney's Office

# OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

---

**RESOLUTION: (1) AUTHORIZING THE CITY ADMINISTRATOR TO ENTER INTO A TWO-YEAR AGREEMENT WITH DR. HERBERT GENE HERN DOING BUSINESS AS (DBA) "EMERGENTT CONSULTING" TO CONTINUE PROVIDING THE SERVICES OF MEDICAL DIRECTOR FOR THE OAKLAND FIRE DEPARTMENT FROM OCTOBER 1, 2023 THROUGH SEPTEMBER 30, 2025 AT A COST OF ONE HUNDRED SEVENTY THOUSAND DOLLARS (\$170,000) WITH THE OPTION TO EXTEND FOR ONE YEAR AT A COST OF EIGHTY THOUSAND DOLLARS (\$80,000) FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED TWO HUNDRED AND FIFTY THOUSAND DOLLARS (\$250,000); AND (2) WAIVING CITY'S COMPETITIVE REQUEST FOR PROPOSALS/QUALIFICATIONS (RFP/Q) PROCESS AND LOCAL AND SMALL BUSINESS (LBE/SLBE) ENTERPRISE PROGRAM REQUIREMENTS FOR THE PROPOSED AGREEMENT**

**WHEREAS**, on June 1, 2000, the Fire Department (Department) began providing Advanced Life Support (ALS) services to the City's residents and visitors; and

**WHEREAS**, the current Medical Director (Dr. Hern) was selected through the City's formal RFP process in 2020 and has served in this capacity since October 1, 2011, meeting the needs of the Department, including the requirement for a physician to authorize the ordering and resupply of controlled substances used by Department paramedics in treating patients; and

**WHEREAS**, in 2015 pursuant to Resolution Number 85808 C.M.S. (Resolution 85808), City Council authorized an agreement with Herbert Gene Hern to provide services as the Medical Director (Medical Director Agreement) for the Oakland Fire Department from October 1, 2015 through September 30, 2018, in an amount not to exceed sixty-five thousand two hundred and thirty-three cents (\$65,233.33), with two annual one-year options to extend at the same annual rate, subject to City Council approval, for a total contract amount not to exceed three hundred and twenty-six thousand one hundred and sixty-six dollars and sixty-five cents (\$326,166.65); and

**WHEREAS**, in 2018, City Council authorized the first one-year option to extend the Medical Director Agreement via Resolution Number 87349 C.M.S.; and

**WHEREAS**, Dr. Hern has provided exceptional clinical oversight of the Department's Paramedics by serving as the lead during call reviews for those EMS requests where questions or issues arise and Dr. Hern has the historical and institutional knowledge of the Department related to system issues that require clinical training as well as individual paramedics who require performance improvement plans; and

**WHEREAS**, the Medical Director works closely with the staff of the Medical Services Division to develop and provides timely instruction on the advances in emergency medicine that occur on a continual basis; and

**WHEREAS**, by serving as the medical authority in call reviews, the Medical Director ensures that appropriate levels of remediation occur when issues arise after Department paramedics have provided clinical care on an EMS response; and

**WHEREAS**, Dr. Hern was the only vendor who responded to the Request for Proposals made in July 2015 which resulted in the current contract; and

**WHEREAS**, in 2020 the City Administration conducted a new Request for Proposals/Qualifications for the Medical Director agreement; and

**WHEREAS**, during his time as the Medical Director, Dr. Hern has been instrumental in maintaining the Department's Accredited Center of Excellence (ACE) status, which is required by Medical Priority Dispatch Services (MPDS); and

**WHEREAS**, the City Administrator has determined that this contract is 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; and

**WHEREAS**, for the period of October 1, 2023, through September 30, 2025 funding for the professional services contract with Dr. Gene Hern, doing business as "Emergent Consulting", was included in the FY 2023-25 Adopted Budget and was appropriated in Measure N Fund (2250), Measure N Paramedic Org. (20912), Administrative Project (1000009), Emergency Medical Response Program (PS19); and

**WHEREAS**, Oakland Municipal Code section 2.04.051.A requires the City Administrator to conduct a request for proposals/qualifications (RFP/Q) process for professional services agreements in excess of \$25,000 and Oakland Municipal Code section 2.04.051.B provides that City Council may waive the RFP/Q requirement upon a finding that it is in the best interests of the City to do so; and

**WHEREAS**, it is in the best interests of the City for the Council to waive the RFP/Q requirement for this contract because Dr. Hern is a highly reputable vendor with an established record of high performance while working with the City of Oakland; and

**WHEREAS**, Ordinance numbers 13640 and 13647 C.M.S. require a minimum 50-percent (50%) Local Business Enterprise/Small Local Business Enterprise participation (LBE/SLBE requirements) for all purchase of commodities, goods and associated services for contracts valued at or over fifty thousand dollars (\$50,000) when there are at least three certified business listed in the industry, trade, or profession that constitutes a major category of work; and

**WHEREAS**, the City Council may waive the City's LBE/SLBE requirements for the purchase of commodities, goods, services, supplies or combination thereof due to a lack or limited availability of SLBEs or LBEs pursuant to Part I of Oakland's Local and Small Local Business Enterprise Program guidelines adopted by Ordinance No. 13647 C.M.S.; and

**WHEREAS**, City staff has determined there is limited availability of LBE/SLBEs that can perform the services that are required under this contract and for that reason recommends that City Council waive the City's LBE/SLBE requirements for the proposed agreement with Dr. Herbert Gene Hern; now, therefore be it

**RESOLVED:** That the City Council authorizes the City Administrator to enter into a two-year agreement with Dr. Herbert Gene Hern doing business as (DBA) "Emergentt Consulting" to provide the services of Medical Director for the Oakland Fire Department, from October 1, 2023 through September 30, 2025, at a cost of one hundred and seventy thousand dollars (\$170,000) with the option to extend for one year at a cost eighty thousand dollars (\$80,000) and without return to City Council, for a total contract amount not to exceed two hundred fifty thousand dollars (\$250,000); and be it

**FURTHER RESOLVED:** That the City Council finds and determines that the services provided pursuant to the contracts authorized hereunder are of a professional, scientific, or technical nature and are temporary; and be it

**FURTHER RESOLVED:** That the City Council finds and determines that the awarding of this contract will not result in the loss of salary or employment by any person having permanent status in the competitive service; and be it

**FURTHER RESOLVED:** That the City Council finds and determines that pursuant to Oakland Municipal Code Section 2.04.051.B, for the reasons stated above and, in the report accompanying this legislation, that it is in the best interest of the City to waive the request for proposals/qualifications requirement for the proposed professional services agreement, and so waives this requirement; and be it

**FURTHER RESOLVED:** That the City Council finds and determines that because of the lack of availability of any Local or Small Local Enterprise business that can provide the same services that are required under this contract, the City Council waives the Local and Small Local Enterprise participation requirement: and be it

**FURTHER RESOLVED:** That the City Administrator or her designee is authorized to complete all required negotiations, certifications, assurances, and documentation required to accept, modify, extend and/or amend this agreement; and be it

**FURTHER RESOLVED:** That funding for the professional services agreement with Dr. Gene Hern, doing business as “Emergent Consulting”, was appropriated in Measure N Fund (2250), Measure N Paramedic Org. (20912), Administrative Project (1000009), Emergency Medical Response Program (PS19); and be it

**FURTHER RESOLVED:** That the City Attorney shall review and approve said agreement as to form and legality and copies of said agreement shall be filed with the Office of the City Clerk.

PASSED BY THE FOLLOWING VOTE:

AYES - KAPLAN, GALLO, KALB, REID, FIFE, RAMACHANDRAN, JENKINS,  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California