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OAKLAND

2018 JUN 14 PM 5:23

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Anne E. Kirkpatrick
Chief of Police

SUBJECT: Professional Services Agreement with
Eberhardt Consulting

DATE: June 6, 2018

City Administrator Approval

Date:

6/14/18

RECOMMENDATION

Staff Recommends That City Council Adopt A Resolution Waiving The Advertising, Bidding And Request For Proposals/Qualifications (RFP/Q) Requirements And Authorizing An Extension For Up To Two Years (Through August 31, 2019) Of The Professional Services Agreement Between The City Of Oakland And Eberhardt Consulting For Technical Assistance Services In The Delphine Allen V. City Of Oakland, For Two Hundred Fifty-One Thousand Dollars (\$251,000) And A Total Contract Amount Not To Exceed Five Hundred Thousand Dollars (\$500,000).

EXECUTIVE SUMMARY

The City has achieved compliance with nearly all reforms mandated by the Negotiated Settlement Agreement (NSA). Three tasks remain in partial compliance. One of these is Task 34, which requires the Oakland Police Department (OPD) to collect demographic and other data on police stops. The Department has been collecting this data for over ten years and the data collection methods have evolved over time.

The City entered into a contract with Eberhardt Consulting on September 1, 2017. This contract, in the amount of \$249,999, called for Eberhardt Consulting to provide technical assistance with regard to the collection and analysis of stop data and the implementation of the 50 reform recommendations outlined in *Strategies for Change*¹, a report based on the analysis of stop data, Personal Digital Recording Device (PDRD) footage and further research conducted by Stanford University and Professor Eberhardt.

The City has committed to implementing the 50 recommendations, and has 14 recommendations left to implement, including a few related to the integration of stop data collection and analysis into the early intervention software system currently under development, called PRIME. The Plaintiffs' Attorneys, the court-appointed Independent Monitoring Team and the Court have all noted that inclusion of stop data analytics into PRIME and the full implementation of the remaining recommendations are important reform priorities. Professor Eberhardt and her team are vital to both of these tasks. The Department is therefore requesting

¹ <https://sparq.stanford.edu/strategies-for-change>

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Public Safety Committee
June 26, 2018

to extend the September 2017 contract for two years in the amount of \$251,000, for a total contract amount not to exceed \$500,000.

BACKGROUND / LEGISLATIVE HISTORY

On January 22, 2003, the City entered into a negotiated settlement agreement ("the NSA") to resolve allegations of police misconduct raised in the civil case of *Delphine Allen, et. al., v. City of Oakland, et. al.* The City's intent was to promote 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). In 2012, the MOU was terminated and a narrower two-year Amended MOU ("the AMOU") was extended and approved by the Court.

A court-appointed Independent Monitoring Team ("IMT") assesses OPD's progress and determines whether it has achieved full compliance with each of the NSA reform tasks.

In October 2012, the Plaintiffs filed a motion to appoint a receiver. After settlement discussions, the parties jointly proposed, and the Court ordered the appointment of a Compliance Director that would provide technical assistance until OPD reached full compliance with all NSA tasks. The City Council subsequently passed Resolution 84189 C.M.S. on January 2, 2013, authorizing expedited purchasing for goods and services directed by the Compliance Director.

One of the most critical requirements of the NSA, Task 34, requires OPD to collect data on persons stopped by police with the intent of racial profiling. OPD also uses its stop data to analyze which policies, practices and policing strategies may be disparately impacting Oakland's communities of color. While OPD has made significant progress with this Task, it continues to refine its stop data collection and analysis to reach full compliance and sustainability.

In May 2014 at the direction of the Compliance Director, the City partnered with Stanford University and Professor Jennifer Eberhardt. This was to address tensions between the Oakland Police Department and the Oakland community and better manage risk through analysis of stop data and PDRD footage. Professor Eberhardt is a professor at Stanford in the Department of Psychology and co-director of SPARQ, a university initiative to use social psychological research to address pressing social problems. She has been recognized for her work investigating the consequences of the psychological association between race and crime. This contract complied with the procurement process specified in Resolution No. 84189 C.M.S.

Two separate contracts were executed for this work, one with Stanford University for gathering and analyzing stop data and Personal Digital Recording Device (PDRD) footage, and one with Professor Jennifer Eberhardt, as an independent consultant, for technical assistance on predictors and patterns which help to identify potentially at risk officers and research related to race and policing. Each contract followed the requirements of Resolution No. 84189 C.M.S. The result of Stanford's work was the *Strategies for Change* report, which outlined 50 recommendations for improving police-community relations.

On September 1, 2017, the City of Oakland entered into a separate Professional Services Agreement (PSA) with Eberhardt Consulting for one year for \$249,999 to provide technical assistance related to stop data collection and analysis and the implementation of the 50 *Strategies for Change* recommendations. This PSA was authorized through the Compliance Director's spending authority under Resolution No. 84189 C.M.S. The current contract expires on August 31, 2018.

ANALYSIS AND POLICY ALTERNATIVES

OPD has invested great effort in developing a robust stop data collection program and risk management programs that monitor officer behavior, identify performance issues, and develop strategies for improving interactions with the community. Because there are virtually no benchmarks in the area of stop data analysis, OPD is not only engaged in self-evaluation, but has also partnered with Stanford University and Professor Eberhardt. The work with Stanford resulted in the report *Strategies for Change*. Included in the report were 50 recommendations to increase trust with the community. The City has committed to implementing all 50 recommendations, some of which require the participation of Professor Eberhardt and her team. The Plaintiffs' Attorneys, the IMT and the Court have made it clear these recommendations are a priority and the Department should continue to provide the Court with updates regarding their implementation.

The City has completed 36 of the 50 recommendations, including enhancing stop data collection and the use of body worn camera footage. These enhancements have improved stop data analysis and led to policy changes, specifically related to police searches, handcuffing, and probation and parole stops. Professor Eberhardt has served as the main consultant for the changes to the stop data form and statistical analysis of stop data. Professor Eberhardt's team has provided training to OPD on how to analyze stop data so staff can make more efficient use of the data on a real-time basis. A comprehensive analysis of the data helps Department supervisors and commanders mitigate risk, identify disparities, provide additional training, and evaluate their officers' enforcement stops to ensure they are in line with command direction.

The Department has also implemented recommendations—such as holding regular informal relationship-building meetings—meant to increase OPD's interactions and communication with the community. For example, OPD has implemented regular "living room conversation" meetings with residents across Oakland. At these meetings, small groups of neighbors gather with OPD representatives to listen, share information, and learn from each other. Participants can discuss specific problems which have increased police-community tension and work on solutions together. The first living-room meeting was led by Councilmember Desley Brooks in 2017, and they continue to occur on a monthly basis.

The 14 recommendations still in progress are anticipated to be completed by the fall of 2019. In addition to the tasks that still need to be completed by OPD and the City of Oakland, some recommendations will be completed by Professor Eberhardt and her team or require the assistance of Professor Eberhardt and her team. Recommendations that will be completed by Professor Eberhardt and her team are automating stop data narrative analysis (recommendation 14) and conducting customer-service audits after routine stops (recommendation 23). In addition, Professor Eberhardt and team are providing assistance with rigorously measuring the effects of all training (recommendation 29).

Professor Eberhardt's team will be conducting customer service audits after routine police stops and measuring the impact of the Department's Procedural Justice training. They will also be training Department to use software they developed which will help the department conduct more thorough audits of the narratives officers complete after stops. Perhaps most importantly, the Department will be collaborating with Professor Eberhardt's team on building stop data analytics and dashboards in PRIME—an early intervention system currently in development. This work will make officers' stop and risk management data (including PDRD footage) available to supervisors and commanders in PRIME, and allow supervisors to more easily identify and address disparities and performance issues.

Professor Eberhardt is uniquely positioned to effectively assess the Department's success in implementing the 50 recommendations. The IMT and the Plaintiffs' Attorneys rely on her team's input and assessments with respect to stop data and the implementation of the recommendations. To ensure compliance with Task 34 and successful completion of the 50 recommendations, the contract with Eberhardt Consulting will need to be extended through at least the anticipated implementation of PRIME in July 2019. While OPD hopes to achieve NSA compliance with the full implementation of PRIME, federal monitoring—and the potential need for technical assistance—will continue during the one-year sustainability period specified in the NSA and AMOU. Accordingly, OPD seeks an extension of the Eberhardt Consulting contract for a period of up to two years (through August 2019).

FISCAL IMPACT

Funding will come from the General Purpose Fund (1010), Org (101130), Project (1001225), Task (A468571), Award (20401).

PUBLIC OUTREACH / INTEREST

In light of national scrutiny on police-community relations and the NSA reforms addressing stop data, OPD has been building and improving its stop data and risk management programs. The goal is twofold: to ensure that officers do not profile people based on race and to develop positive and robust community relationships. OPD has made great progress in its stop data program and is committed to continued improvement. The partnership between OPD and Professor Eberhardt will continue to support these efforts.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and the Budget Bureau.

SUSTAINABLE OPPORTUNITIES

Economic: No economic opportunities were identified with this report.

Environmental: There are no environmental issues associated with this report.

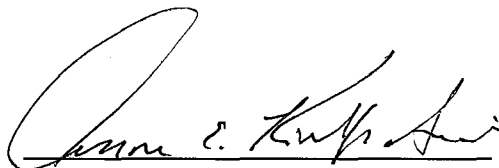
Social Equity: A comprehensive and effective stop data program will help OPD address concerns with social equity.

ACTION REQUESTED OF THE CITY COUNCIL

Staff Recommends That City Council Adopt A Resolution Waiving The Advertising/Bidding And Request For Proposals/Qualifications Requirements And Authorizing An Extension Of Up To Two Years (Through August 31, 2019) Of The Professional Services Agreement Between The City Of Oakland And Eberhardt Consulting For Technical Assistance Services In Delphine Allen V. City Of Oakland, For Two Hundred Fifty One Thousand Dollars (\$251,000) And A Total Contract Amount Not To Exceed Five Hundred Thousand Dollars (\$500,000).

For questions regarding this report, please contact Kristin Burgess, Police Program and Performance Audit Supervisor, at 510-238-7097.

Respectfully submitted,



ANNE E. KIRKPATRICK
Chief of Police
Oakland Police Department

Prepared by:
Kristin Burgess, Police Program and
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Office of Inspector General
Oakland Police Department

Reviewed by:
LeRonne Armstrong, Acting Assistant Chief
Oakland Police Department

FILED
OFFICE OF THE CITY ATTORNEY
OAKLAND
Approved as to Form and Legality
2010 JUN 14 PM 5:29
City Attorney's Office

OAKLAND CITY COUNCIL

RESOLUTION NO. _____ C.M.S.

RESOLUTION WAIVING THE ADVERTISING/BIDDING AND REQUEST FOR PROPOSALS/QUALIFICATIONS REQUIREMENTS AND AUTHORIZING AN EXTENSION OF UP TO TWO YEARS (THROUGH AUGUST 31, 2019) OF THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF OAKLAND AND EBERHARDT CONSULTING FOR TECHNICAL ASSISTANCE SERVICES IN *DELPHINE ALLEN V. CITY OF OAKLAND*, FOR TWO HUNDRED FIFTY-ONE THOUSAND DOLLARS (\$251,000) AND A TOTAL CONTRACT AMOUNT NOT TO EXCEED FIVE HUNDRED THOUSAND DOLLARS (\$500,000)

WHEREAS, the City of Oakland has achieved compliance with nearly all reforms mandated by the Negotiated Settlement Agreement (NSA) in *Delphine Allen v. City of Oakland*, Case No. C00-4599 WHO (N.D. Cal.); and

WHEREAS, there are only three NSA-mandated reforms outstanding, all of which are in partial compliance; and

WHEREAS, one of the three outstanding NSA-mandated reforms, Task 34, requires the Oakland Police Department (OPD) to collect and analyze demographic and other data on police stops; and

WHEREAS, in 2014, at the direction of the Compliance Director, OPD partnered with Stanford University and Professor Jennifer Eberhardt to address tensions between OPD and the community and to better manage risk through analysis of stop data and Personal Digital Recording Device (PDRD) footage; and

WHEREAS, as a result of their analysis of OPD's stop data, Personal Digital Recording Device (PDRD) footage and related research, Professor Eberhardt and Stanford University published 50 recommendations for reform meant to reduce OPD's footprint on communities of color and improve police-community relationships; and

WHEREAS, on September 1, 2017, the City entered into a contract with Eberhardt Consulting for \$249,999, pursuant to which Professor Eberhardt and her team provide technical assistance to the Department regarding the collection and analysis of stop data and the implementation of the 50 recommendations to help achieve full compliance with Task 34; and

WHEREAS, OPD has implemented 36 of the 50 Stanford recommendations;

WHEREAS, Plaintiffs' Counsel, the court-appointed Independent Monitoring Team and the Court in the *Allen* case expect the City to complete its work with Professor Eberhardt related to both the collection and analysis of stop data and the successful implementation of the 14 remaining recommendations; and

WHEREAS, additional time (of up to two years) and funding (of up to \$251,000) is necessary for Eberhardt Consulting to continue its works on Task 34 compliance and the implementation of the remaining recommendations; now, therefore be it

RESOLVED: That the City Administrator or designee is authorized to execute a two-year extension of the contract with Eberhardt Consulting for technical assistance to help OPD achieve compliance with Task 34 of the NSA and implement the remaining recommendations for Two Hundred Fifty One Thousand (\$251,000) for a total contract amount not to exceed Five Hundred Thousand Dollars (\$500,000); and be it

FURTHER RESOLVED: That the City Council finds it is in the best interests of the City to waive the advertising/bidding and request for proposals/qualifications requirements of Section 2.04.051(B); and be it

FURTHER RESOLVED: That the funds for the services described above will be allocated from the General Purpose Fund (1010), Org (101130), Project (1001225), Task (A468571), Award (20401); and be it

FURTHER RESOLVED: That the City Administrator or designee is authorized to complete all required negotiations, certifications, assurances, and documentation required to execute, modify, extend, renew and/or amend such an agreement without returning to the City Council; and be it

FURTHER RESOLVED: That in accordance with Article IV, Section 401(6) of the City Charter, the agreement authorized by this resolution shall be approved by the City Attorney's Office as to form and legality before execution, and a copy of the fully executed agreement shall be placed on file with the Office of the City Clerk.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, CAMPBELL WASHINGTON, GALLO, GIBSON MCELHANEY,
GUILLÉN, KALB, KAPLAN AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: _____

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