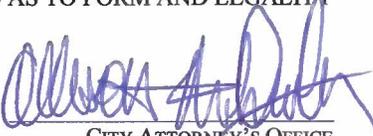


APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCILMEMBER LOREN TAYLOR



CITY ATTORNEY'S OFFICE

## OAKLAND CITY COUNCIL

ORDINANCE NO. \_\_\_\_\_ C.M.S.

---

**ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 2.04, *PURCHASING SYSTEM*, TO AMEND SECTION 2.04.051 TO CONFIRM AND CLARIFY THE AUTHORITY OF THE CITY ADMINISTRATOR TO WAIVE RFP/Q REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS UP TO FIFTY THOUSAND DOLLARS (\$50,000.00) ON BEHALF OF THE POLICE COMMISSION**

**WHEREAS**, the voters of the City of Oakland overwhelmingly voted yes (83.19%) for Measure LL on November 8, 2016, which established the Oakland Police Commission (Commission) and the Community Police Review Agency (Agency) and amended the Oakland City Charter to add section 604, entitled “Police Commission”; and

**WHEREAS**, the voters of the City of Oakland overwhelmingly voted yes (81.27%) for Measure S1 on November 3, 2020, which amended section 604 of the Oakland City Charter to strengthen the independence of the Commission by modifying the powers, duties, and staffing of the Commission and the Agency, and by establishing the Office of the Inspector General to be overseen by the Commission; and

**WHEREAS**, on July 9, 2019 the Oakland City Council adopted an ordinance amending Oakland Municipal Code Chapter 2.04, *Purchasing System*, to add section 2.04.022 to authorize the Police Commission to Purchase professional services necessary to fulfill its duties as codified in section 604 of the Oakland City Charter (Ordinance No. 13547 C.M.S.); and

**WHEREAS**, section 2.04.022(F) provides in pertinent part, that “[a]ll contracts approved by the Commission are subject to the competitive and other processes and procedures required under sections 2.04.050 and 2.04.051 [...] unless City Administrator or City Council waiver by resolution is obtained as necessary for each of the programs/policies.”; and

**WHEREAS**, section 2.04.051(A)(2) addresses the responsibility of the Police Commission for requests for qualifications or proposal for professional services contracts in excess of fifty thousand dollars and provides that “[t]he CPRA Director shall conduct a request for proposal (RFP) or request for qualifications (RFQ) process for all contracts to be awarded by the Police Commission.”; and

**WHEREAS**, section 2.04.051(B) sets forth the authority of the City Administrator to waive RFP/Q requirements for professional services contracts up to fifty thousand dollars (\$50,000) upon a finding by the City Administrator that it is in the best interests of the City; and provides that “[t]he foregoing is not applicable to the Police Commission.”; and

**WHEREAS**, as set forth in section 2.04.022(F), the City Council intended that, in the addition to the City Council, the City Administrator retain the authority to waive the RFP/Q requirements for professional services contracts up to fifty thousand dollars (\$50,000) on behalf of the Commission; and

**WHEREAS**, to the extent that section 2.04.051(A)(2) creates ambiguity as to the CPRA Director’s responsibility to conduct a RFP/Q process for contracts up to fifty thousand dollars (\$50,000) and to the extent that section 2.04.051(B) can be read to contradict section 2.04.022(F), the City Council wishes to confirm and clarify the authority of the City Administrator to waive RFP/Q requirements for professional services contracts up to fifty thousand dollars (\$50,000) on behalf of the Police Commission; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** Title 2, chapter 2.04 of the Oakland Municipal Code setting forth authorization and procedures for the procurement of, among other things, professional, technical and scientific services is amended to add, delete or modify sections as set forth below (section numbers and titles are indicated in bold type; additions are indicated by underscoring and deletions are indicated by strike-through type.) Portions of regulations not shown in underscoring or strike-through are not changed.

**2.04.051 – Competitive process and qualification-based awards for professional services contracts.**

**A. Request for Qualifications or Proposal for Professional Services Contracts in Excess of Fifty Thousand Dollars (\$50,000.00).**

1. **City Administrator Responsibility.** The City Administrator or the City Administrator's designee shall conduct a request for proposal ("RFP") or request for qualifications ("RFQ") process for the award of contracts that exceed fifty thousand dollars (\$50,000.00) and are exempt from bidding under Subsection 2.04.050.1.1. The RFP/Q process shall be conducted in accordance with Section 2.04.040 B.4., above. The City's RFP and RFQ processes shall be set forth in a City Administrator's administrative instruction. The RFP or RFQ requirement applies, but is not limited to, contracts for professional, technical or specialized services. The selection and award of contracts for professional services shall be based on demonstrated competence and qualifications for the types of services to be performed, at fair and reasonable prices to the City.
2. **Police Commission Responsibility.** The CPRA Director shall conduct a request for proposal ("RFP") or request for qualifications ("RFQ") process for all contracts to be

awarded by the Police Commission for which a RFP/Q process is required. The RFP/Q process shall be conducted in accordance with Section 2.04.040 B-4., above. The informal RFP/Q process set forth in Section 2.04.040 B.3 is not required for professional services contracts up to fifty thousand dollars (\$50,000.00) for which a waiver is obtained pursuant Section 2.04.051 B., below.

B. Waiver—City Administrator Authority, City Council Authority. Upon a finding by the City Administrator that it is in the best interests of the City, the City Administrator may waive said RFP/Q requirements for professional services contracts up to fifty thousand dollars (\$50,000.00). ~~The foregoing is not applicable to the Police Commission.~~ Upon a finding by the City Council or its designee that it is in the best interests of the City, the City Council may waive said RFP/Q requirements for contracts in any amount.

...

**SECTION 2. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

**SECTION 3. Effective Date.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

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

NOES –  
ABSENT –  
ABSTENTION –

ATTEST: \_\_\_\_\_

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

Date of Attestation: \_\_\_\_\_

## NOTICE AND DIGEST

### **ORDINANCE AMENDING OAKLAND MUNICIPAL CODE CHAPTER 2.04, *PURCHASING SYSTEM*, TO AMEND SECTION 2.04.051 TO CONFIRM AND CLARIFY THE AUTHORITY OF THE CITY ADMINISTRATOR TO WAIVE RFP/Q REQUIREMENTS FOR PROFESSIONAL SERVICES CONTRACTS UP TO FIFTY THOUSAND DOLLARS (\$50,000.00) ON BEHALF OF THE POLICE COMMISSION**

This Ordinance will amend Oakland's Purchasing Ordinance codified at Oakland Municipal Code Title I, Chapter 2.04, to confirm and clarify the authority of the City Administrator to waive RFP/Q requirements for professional services contracts up to fifty thousand (\$50,000) on behalf of the Police Commission by amending Section 2.04.051 A.2 and 2.04.051 B. as follows:

#### **2.04.051 – Competitive process and qualification-based awards for professional services contracts.**

##### **A. Request for Qualifications or Proposal for Professional Services Contracts in Excess of Fifty Thousand Dollars (\$50,000.00).**

1. **City Administrator Responsibility.** The City Administrator or the City Administrator's designee shall conduct a request for proposal ("RFP") or request for qualifications ("RFQ") process for the award of contracts that exceed fifty thousand dollars (\$50,000.00) and are exempt from bidding under Subsection 2.04.050.1.1. The RFP/Q process shall be conducted in accordance with Section 2.04.040 B.4., above. The City's RFP and RFQ processes shall be set forth in a City Administrator's administrative instruction. The RFP or RFQ requirement applies, but is not limited to, contracts for professional, technical or specialized services. The selection and award of contracts for professional services shall be based on demonstrated competence and qualifications for the types of services to be performed, at fair and reasonable prices to the City.
2. **Police Commission Responsibility.** The CPRA Director shall conduct a request for proposal ("RFP") or request for qualifications ("RFQ") process for all contracts to be awarded by the Police Commission for which a RFP/Q process is required. The RFP/Q process shall be conducted in accordance with Section 2.04.040 B.4., above. The informal RFP/Q process set forth in Section 2.04.040 B.3 is not required for professional services contracts up to fifty thousand dollars (\$50,000.00) for which a waiver is obtained pursuant Section 2.04.051 B., below.

##### **B. Waiver—City Administrator Authority, City Council Authority.** Upon a finding by the City Administrator that it is in the best interests of the City, the City Administrator may waive said RFP/Q requirements for professional services contracts up to fifty thousand dollars (\$50,000.00). ~~The foregoing is not applicable to the Police Commission.~~ Upon a finding by the City Council or its designee that it is in the best interests of the City, the City Council may waive said RFP/Q requirements for contracts in any amount.