

 City Attorney

OAKLAND CITY COUNCIL

RESOLUTION No. 83380 C.M.S.

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR:
(1) TO WAIVE THE ADVERTISING, COMPETITIVE BID AND REQUEST FOR PROPOSALS/QUALIFICATIONS REQUIREMENTS FOR AWARDING PROFESSIONAL SERVICES CONTRACTS;
(2) TO EXTEND THE PROFESSIONAL SERVICES AGREEMENT WITH POLICE PERFORMANCE SOLUTIONS, LLC., FOR TWO YEARS FOR THE PERIOD FROM JANUARY 21, 2012 TO JANUARY 20, 2014, IN THE AMOUNT OF ONE MILLION, SIX HUNDRED EIGHTY FOUR THOUSAND DOLLARS (\$1,684,000) FOR MONITORING THE CITY'S IMPLEMENTATION OF CONTEMPORARY POLICE PRACTICES;
(3) TO INCLUDE AS PART OF THE AMENDED CONTRACT A PROVISION THAT THE MONITORING TEAM WILL PROVIDE TECHNICAL ASSISTANCE TO THE OAKLAND POLICE DEPARTMENT TO ASSIST THE CITY IN ACHIEVING COMPLIANCE WITH THE NEGOTIATED SETTLEMENT AGREEMENT APPROVED BY THE CITY IN ALLEN V. CITY OF OAKLAND, ET AL., USDC NO. C00-4599 TEH(JL)

WHEREAS, in January 2003, the City Council approved the settlement in the case of *Allen vs. City of Oakland, et al*, which settled the claims of many Plaintiffs in which they alleged that several individual Oakland police officers violated their constitutional rights, and that the City was permissive or sanctioned said conduct; and

WHEREAS, the settlement resulted in the Negotiated Settlement Agreement ("NSA"), in which the City agreed to update its police policies, revamp police training, and adopt contemporary police practices in the areas of use of force, field supervision, discipline and accountability measures; and

WHEREAS, the Oakland Police Department completed all of the policy and training requirements and many of the practice compliance obligations within the first seven years of the NSA, but required more time to show practice compliance in some areas, and therefore the Court ordered the City to extend the time of the NSA and to continue to work under the oversight of an independent police monitor; and

WHEREAS, the City Council approved a two-year extension of the NSA, from 2010 to 2012, under a more narrow Memorandum of Understanding ("MOU") which credited the work already achieved by the Oakland Police Department, and also retained the services of a new independent monitor, Police Performance Solutions, LLP ; and

WHEREAS, to this day the Oakland Police Department continues to make progress in achieving practice compliance under the 2010 MOU, however the Parties believe, and the Court has found,

that the City will need more time to complete its police reform work thus requiring the Parties to agree to an additional two year extension of the MOU and of the Monitor's contract; and

WHEREAS, the City's efforts to improve its police policies, training and practices have and continue to lead to significant progress in the way the Oakland Police Department delivers services to the Oakland community; and

WHEREAS, the two-year contract with the current independent monitor, Police Performance Solutions, ends in January 2012, and the City desires to extend this contract for two more years from 2012 to 2014 so that there is no delay in monitoring, and further desires that the Monitoring Team provide technical assistance to the Oakland Police Department to help the City achieve full compliance with the Court's requirements, as part of the amended contract; and

WHEREAS, sufficient funds have been budgeted in the proposed FY 2011-13 budget in the Miscellaneous Grant Fund (2999), Project Number to be Determined to pay for this contract; and

WHEREAS, the City's Department of Contracting and Purchasing conducted an availability analysis on May 17th, 2011, and did not find a certified firm that could provide the contract services and therefore, the City's 20% Local and Small Business Enterprise requirements have been waived; 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 informal RFQ process was thorough and appropriate for the nature of the services required, the Court has strongly encouraged the City to retain the services of the existing monitoring team, it serves the City's interests to not delay the monitoring process considering the Court's timelines and directives applicable to this case, and conducting a formal RFQ process will result in delays and hamper the City's efforts to meet its compliance obligations with the Court; and

WHEREAS, the City lacks qualified personnel to perform the necessary work, the Court has ordered the retention of an independent professional to conduct said work, and the City Council finds and determines that the services contract authorized hereunder is 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 amend and extend the contract with Police Performance Solutions, for two additional years, from January 21, 2012 to January 20, 2014, to continue to provide technical assistance to the Oakland Police Department and to perform the services of an Independent Monitor as provided in the modified Memorandum of Understanding Re: Post Negotiated Settlement Agreement Terms and Conditions entered into by the Parties and in the Scope of Work submitted by the Independent Monitor; and be it

FURTHER RESOLVED: that the 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: sufficient funds have been budgeted in the proposed FY 2011-13 budget in the Miscellaneous Grant Fund (2999), Project Number to be Determined to pay for this contract; and be it

FURTHER RESOLVED: that the City Administrator or his 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, JUN 7 2011, 20

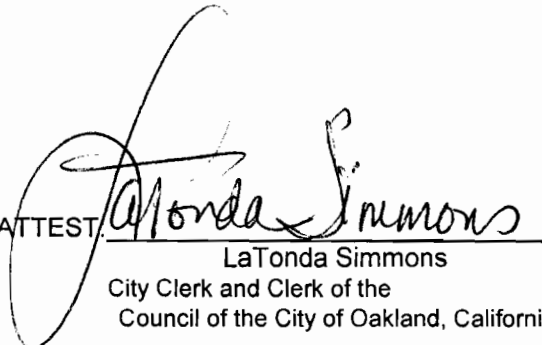
PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, SCHAAF, and PRESIDENT REID - 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

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